

DEPORTATION OF ALIENS

JANUARY 27, 1925.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

Mr. JOHNSON of Washington, from the Committee on Immigration and Naturalization, submitted the following

REPORT

[To accompany H. R. 11796]

The Committee on Immigration and Naturalization, to whom was referred the bill (H. R. 11796) to provide for the deportation of certain aliens, and for other purposes, having had the same under consideration, reports it back to the House without amendment and recommends that the bill do pass.

The immigration acts of 1917 and 1924, which now appear to represent the settled policy of this Government, have made it possible, to a great extent at least, to limit the entry into this country of undesirable and dangerous aliens. This bill will materially assist the immigration authorities in further preventing the entry of such aliens, and provides methods whereby those already unlawfully in the United States and those who may hereafter unlawfully enter or seek to enter the country may be deported.

While there is a wide difference of opinion as to the policy of restrictive immigration, the committee is glad to report that there is no substantial objection to the deportation of aliens who constitute a menace to or an unjust burden on our Government.

The principal reason for deporting undesirable aliens is to promote the maintenance of law and order in our country and to afford protection and opportunities for development to all the people residing in our country, aliens and citizens alike. No class of people suffer more from the actions of undesirable and law-breaking aliens than does that great body of worthy and deserving aliens residing in our midst, who in good faith are contributing to the welfare of the country, and are in large numbers attempting to become citizens of the United States. Unworthy conduct and flagrant disregard of the laws of our country on the part of a very small percentage of the aliens residing in the United States unfortunately, but certainly,

tends to create a prejudice in the public mind against all aliens. Therefore the deportation of that small percentage of undesirable aliens will redound to the benefit of the worthy and deserving aliens in the country to an equal, if not greater, degree than to that of our own citizens.

The proposed bill is printed as Appendix A of this report.

The remainder of this report is divided into six parts and three appendices, as follows:

Part I. General scope of the bill.

Part II. Exclusion and deportation.

Part III. Grounds for arrest and deportation.

Part IV. Procedure in arrest and deportation cases.

Part V. Provisions common to exclusion and arrest.

Part VI. Miscellaneous provisions.

Appendix A. The bill as reported.

Appendix B. Sections 18, 19, and 20 of the immigration act of 1917.

Appendix C. The act of December 26, 1920, entitled "An act to provide for the treatment in hospitals of diseased alien seamen," which is repealed by the bill, but the subject matter of which is provided for in the bill.

PART I. GENERAL SCOPE OF BILL

The proposed deportation act of 1925 is chiefly an extension and revision of the provisions relating to the deportation of aliens contained in sections 18, 19, and 20 of the immigration act of February 5, 1917 (39 Stat. 874), set forth in Appendix B of this report, together with certain added provisions for the better enforcement of the law. These provisions have been rearranged into a more orderly classification, so that section 18 governs the exclusion and deportation of arriving aliens who are not found to be entitled to enter the United States, section 19 governs the arrest and deportation of aliens who have entered the United States either legally or illegally, while section 20 contains general provisions applicable to the deportation of both classes of aliens.

IN ADDITION TO OTHER LAWS

The provisions of the bill are in addition to other acts and provisions of law relating to deportation. The following laws have not been repealed:

(1) The act entitled "An act to exclude and expel from the United States aliens who are members of the anarchistic and similar classes," approved October 16, 1918, as amended by an act to amend such act, approved June 5, 1920;

(2) The act entitled "An act to deport certain undesirable aliens and to deny readmission to those deported," approved May 10, 1920 (relating to war time offenses, etc.);

(3) Section 2 of the act entitled "An act to prohibit the importation and the use of opium for other than medicinal purposes," approved February 9, 1909, as amended; and

(4) Laws relating to the immigration, exclusion, and deportation of Chinese persons or persons of Chinese descent.

Section 6 of the bill, however, provides that whenever in any law heretofore enacted it is provided that any alien shall be deported, the arrest and deportation of such alien shall (regardless of the manner provided in such law) be made in the same manner as provided in sections 19 and 20 of the act of 1917 as amended. In reference to the Chinese exclusion acts it should be noted that subdivision (d) of section 19 of the 1917 act, as amended by the bill, puts upon Chinese persons when arrested under the provisions of such section the burden of proving their right to remain in the United States.

In order to have complete uniformity in deportation procedure, section 6 of the bill further provides that whenever in any law hereafter enacted it is provided that any alien shall be deported, the arrest and deportation shall, unless expressly provided to the contrary, be made in the same manner as provided in such sections 19 and 20.

PART II. EXCLUSION AND DEPORTATION

TIME AND MEANS OF DEPORTATION

Section 18 of the existing law provides that aliens brought in in violation of law shall be immediately sent back unless, in the opinion of the Secretary of Labor, immediate deportation is not practicable or proper. The proposed amendment provides for immediate deportation with discretion vested in no person to suspend the deportation except: (1) Where a diseased alien seaman is placed in a hospital; (2) where it would cause unusual hardship or suffering to deport an excluded alien before hospital treatment; (3) where the testimony of an excluded alien is necessary in the interests of the United States. If it is not practicable or proper to deport the alien on the vessel bringing him (as, for example, where the vessel has departed before the determination of the alien's inadmissibility, or where the vessel which brought the alien from one country is destined on the return trip to other places), he is to be deported on a vessel owned or operated by the same interests, unless that is not practicable or proper (as where there is no other such vessel or too long a time will elapse before its arrival, or for other reasons satisfactory to the immigration official in charge at the port of arrival), in which case he is to be otherwise deported. Under subdivision (d) of section 18, the expense of deportation in all cases is put upon the owner, agent, or consignee of the vessel bringing such alien.

EXCLUSION AND DEPORTATION OF SEAMEN

Under the present law, only two classes of alien seamen can be excluded and deported at the time of arrival. Seamen generally are subject to the same grounds for deportation after arrival in the country, upon warrant of arrest and order of the Secretary of Labor, as other aliens. But, in order to be able to exclude and deport a seaman at the time of arrival, under the present law it must be shown either (1) that he is not a bona fide seaman, or (2) that he is afflicted with certain dangerous mental or physical diseases or disorders

which can not be cured within a reasonable time. If he is subject to exclusion for any other reason, he nevertheless must be permitted to land temporarily for the purpose of reshipping foreign. In order to secure proper conditions for seamen deported on one of the two above grounds and also as a means of preventing the bringing to the United States of such aliens by vessels as members of their crews, it is provided in the bill (as a part of subdivision (a) of section 18 of the 1917 act as amended by the bill) that in no case shall an alien employed on board a vessel be deported on that vessel, or on any vessel owned or operated by the same interests, unless it appears to the immigration officials that deportation in any other manner would be impracticable. The insertion of this provision makes necessary the rewriting of section 20 of the immigration act of 1924, which section is amended by section 4 of the bill so as to remove from that section the provision of existing law which makes it the duty of the vessel to detain on board and deport an alien seaman, if so ordered by immigration officials. Section 20 of the act of 1924, as rewritten, also omits the provision found in the existing law authorizing the Secretary of Labor to cause a seaman to be deported on a vessel other than the one which brought him if he finds it will cause undue hardship. There is omitted, also, the existing subdivision (b) of section 20 of the 1924 act providing that proof that an alien seaman did not appear upon the outgoing manifest of the vessel, or that he was reported by the master as a deserter, shall be prima facie evidence of failure to deport after requirement by immigration officials. Since the penalty, which the section imposes upon the owner and master of the vessel, is an administrative fine, liability to which is determined by the Secretary of Labor, and which is enforced by denial of clearance (see *Oceanic Steam Navigation Co. v. Stranahan* (214 U. S. 320)) is it not apparent why there should be any necessity for a rule of prima facie evidence. If the Secretary is satisfied that the vessel has not performed its duty, liability to the fine is imposed by the law.

In rewriting section 20 of the 1924 act there is inserted a new subdivision providing that an alien employed on a vessel may be removed to an immigration station or other appropriate place for examination under the same conditions in respect of such removal as in the case of any other alien. Probably the present law imposes such a duty upon the vessel, but the immigration officials have encountered opposition in certain cases, and it is desirable to have the law made definite beyond a doubt.

ACCOMPANYING ALIENS

Subdivision (b) of section 18 is a revision of the last proviso of the same section in the existing law. It provides that if an alien who is excluded is accompanied by another alien whose protection or guardianship is required the accompanying alien may also be excluded and deported. The existing law adds a provision that the vessel shall be required to return him in the same manner as in the case of other rejected aliens. This language is omitted as surplusage, since the bill provides in another place for placing the expense of deportation upon the vessel upon which any excluded alien has come. Since the accompanying alien is by law made an excluded alien, no particular imposition of liability is necessary at this point.

HOSPITALIZATION OF DISEASED ALIEN SEAMEN

The act of December 26, 1920, entitled "An act to provide for the treatment in hospital of diseased alien seamen" (printed in full in Appendix C) provides that "alien seamen" found on arrival in ports of the United States to be afflicted with certain disabilities or diseases shall be placed in a hospital and treated at the expense of the vessel. If it appears to the satisfaction of the immigration official in charge that it will not be possible to effect a cure within a reasonable time, the act provides that "the return of the alien seamen shall be enforced on or at the expense of the vessel on which they came." The Circuit Court of Appeals for the Second Circuit decided a year ago in the case of *New York & Cuba Mail S. S. Co. v. U. S.* (297 Fed. 158) that the act does not apply to aliens employed upon vessels of American registry. This is contrary to the intention of the act. The present bill repeals this act and rewrites it (subdivision (c) of section 18 of the immigration act of 1917 as amended by the bill) so as to remove any possible doubt on the question. It is provided that aliens employed on board any vessel who are certified by a Public Health Service officer to be afflicted with certain dangerous mental and physical disorders and diseases are to be placed in a hospital for treatment at the expense of the vessel. Upon cure the alien is to be permitted to enter the United States temporarily under the same conditions and limitations as if the vessel had arrived on the date of his discharge from the hospital, but if it appears that he can not be cured within a reasonable time he is to be deported at the expense of the vessel.

COST OF MAINTENANCE OF EXCLUDED ALIEN

Subdivision (d) of section 18 affirmatively imposes upon the owner, agent, or consignee of the vessel bringing an alien not found to be entitled to enter the United States, the cost of his maintenance while temporarily removed from such vessel, while pending examination for admission or pending deportation after having been found to be inadmissible, or while deportation is suspended to permit hospital treatment for sickness or mental or physical disability where immediate deportation would cause unusual hardship or suffering (including medical and hospital treatment, and burial expenses not to exceed \$125 in case of death), and the cost of his deportation. This subdivision also places upon the owner, agent, or consignee of a vessel bringing a diseased alien seaman all such costs incurred in respect of such seaman.

This subdivision also authorizes (but does not require) the immigration official in charge at the port of arrival, under regulations, to require the owner, agent, or consignee of any vessel bringing aliens to the United States to give bond that all costs accruing on account of such aliens shall be paid, and where bond is required clearance shall not be granted until it is given, unless a sum equal to the estimated amount of costs is deposited with the collector of customs. Additional bond or sums may be required from time to time and enforced against such vessel or any other vessel owned or operated by the same interests. With no such protective provision in the existing law, the Government has in some cases been forced to

bear the expense of the maintenance of aliens due to a failure of the steamship companies to pay their bills, followed by the bankruptcy of such companies. If found necessary, the giving of a blanket bond covering all aliens brought in by a company during any specified period might be permitted in lieu of separate bonds for each trip.

PART III. GROUNDS FOR ARREST AND DEPORTATION

The proposed amendment of section 19 of the immigration act of 1917 eliminates various time limitations imposed by the immigration act of 1917, and provides that the following aliens shall, at any time after entering the United States (whether the entry was before or after the enactment of the deportation act of 1925), be taken into custody and deported:

ALIENS EXCLUDABLE AT TIME OF ENTRY

"(1) An alien who at the time of entry was a member of one or more of the classes excluded by law from admission to the United States." (Under existing law, at any time within five years after entry.)

SURREPTITIOUS OR UNLAWFUL ENTRY

"(2) An alien who entered the United States at any time or place other than as designated by immigration officials, or who eluded examination or inspection, or who obtained entry by a false or misleading representation, or the failure to disclose material facts." The existing law reads: "At any time within three years after entry any alien who shall have entered the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, or who enters without inspection." No good reason is seen for perpetuating the distinction made in existing law between entering by water or by land. The suggested amendment is broad enough to cover entry in any manner. Immigration officials, of course, will designate times and places only as authorized by their superior officers. It is deemed desirable to state affirmatively the additional grounds set forth in this paragraph which can now be covered only by resorting to the phrase "who enters without inspection."

UNLAWFUL REMAINING IN THE UNITED STATES

"(3) An alien who remains in the United States for a longer time than authorized by law or regulations made under authority of law." This is a new provision which supplements a similar one in section 14 of the immigration act of 1924. The act of 1917 in section 19 contains the following language: "Any alien who shall have entered or who shall be found in the United States in violation of this act, or in violation of any other law of the United States." This clause is omitted, as being covered by paragraphs (1), (2), and (3).

PUBLIC CHARGES

"(4) An alien who is a public charge from causes not affirmatively shown to have arisen subsequent to entry into the United States." Existing law reads: "Any alien who within five years after entry becomes a public charge from causes not affirmatively shown to have arisen subsequent to landing." The change eliminates the five-year time limitation and enables the Government to deport an alien public charge at any time unless it can be affirmatively shown that the cause has arisen subsequent to entry into the United States. The practice is prevalent on the part of many persons to care for such of their friends or relatives as come within these classes until the expiration of the five-year period, and thereupon turn them out to be cared for by public institutions when they can no longer be deported under existing law on the ground of being a public charge.

INSANE ALIENS

"(5) An alien who, from causes not affirmatively shown to have arisen subsequent to entry into the United States, is an idiot, imbecile, feeble-minded person, epileptic, insane person, person of constitutional psychopathic inferiority, or person with chronic alcoholism." This is a new provision to make deportable aliens of the enumerated classes who, at the time of their entry, were affected by one or more of such conditions in such a manner as not to make them appear subject to exclusion. This would make it possible to deport the enumerated classes regardless of the fact that they are not public charges, the primary purpose being to rid the country of this dangerous and undesirable type of aliens. It seems to the committee that wealth or poverty in this class of cases is immaterial and that the country should rid itself of the rich idiot as well as one who is a public charge.

CONVICTION OF CRIME

"(6) An alien who is convicted of any offense (committed after the enactment of the deportation act of 1925) for which he is sentenced to imprisonment for a term of one year or more." The existing law provides: "Any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude committed within five years after the entry of the alien to the United States, or who is hereafter sentenced more than once to such a term of imprisonment because of conviction in this country of any crime involving moral turpitude, committed at any time after entry," except that deportation shall not be made or directed in such case "if the court, or judge thereof, sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence or within 30 days thereafter, due notice having first been given to representatives of the State, makes a recommendation to the Secretary of Labor that such alien shall not be deported." The three important changes effected by this paragraph are: (1) The elimination of the five-year time limitation for a single offense; (2) the substitution for the vague and uncertain test of "moral turpitude" the test of a sentence to im-

prisonment for a term of one year or more; and (3) the elimination of the provision for a recommendation of nondeportation by the court or judge sentencing such alien.

"(7) An alien who is convicted of any offense (committed after the enactment of the deportation act of 1925) for which he is sentenced to imprisonment for a term which, when added to the terms to which sentenced under one or more previous convictions of the same or any other offense (committed after the enactment of the deportation act of 1925), amounts to eighteen months or more." This is a new provision to make deportable the alien who is an habitual criminal but who has escaped with sentence of less than one year. Under this paragraph, when an alien who has been convicted more than once of minor infractions of law, has received terms of imprisonment aggregating 18 months or more, he is to be deported.

"(8) An alien who is convicted of a violation of, or conspiracy to violate (committed or entered into after the enactment of the deportation act of 1925), any statute of the United States or a State or Territory prohibiting or regulating the manufacture, possession, sale, exchange, dispensing, giving away, transportation, importation, or exportation of intoxicating liquors for beverage purposes, for which he is sentenced to imprisonment for a term which, when added to the terms to which sentenced under one or more previous convictions of a violation of or conspiracy to violate any of such statutes (such previous violations or conspiracies having been committed or entered into after the enactment of the deportation act of 1925), amounts to one year or more." This is a new provision to make deportable aliens who have been convicted of violations or conspiracies to violate the liquor laws of the United States or of a State or Territory and for which they are sentenced to imprisonment for terms aggregating one year or more. This paragraph is designed to effect the deportation of an alien where he has violated either a Federal or State or Territorial liquor law twice, or has violated the Federal law in one instance and a State or Territorial law in another, or has violated a State or Territorial law in one instance and another State or Territorial law in another instance.

Subdivision (b) of section 19 gives the alien convicted of crime two safeguards not affirmatively specified in existing law, although, as a matter of practice, it is quite likely that both are being afforded without specific provision. They are that no conviction can be used as a ground of deportation unless, first, it is a conviction in a court of record, and, second, that the judgment on such conviction has become final. This provision is applicable to every conviction alluded to in paragraphs (6), (7), and (8) above quoted and explained. Where an alien has appealed, or while he has the right to appeal, from the judgment on a conviction rendering him liable to deportation, he may not be deported. These safeguards are deemed desirable, especially since the court or judge is no longer given the right to recommend that the alien be not deported.

This subdivision also provides that in the case of a sentence for an indeterminate term in which the minimum term under the sentence is less than one year, the term actually served shall be considered the term for which sentenced where deportation is based upon the length of the term of imprisonment.

An alien who has been pardoned after conviction of an offense specified in paragraph (6), (7), or (8) above, shall not be deported. Thus a pardon would not relieve from deportation an alien who has violated or conspired to violate the white slave traffic act or the Federal antinarcotic laws, nor would it save persons engaged in or connected with prostitution, nor others who are deported under some provision of law other than the paragraphs enumerated. This provision of the bill continues the principle embodied in a provision of the existing law which exempts from deportation an alien who has been pardoned after conviction of a crime involving moral turpitude.

Subdivision (c) of section 19 provides that an alien sentenced to imprisonment shall not be deported under any provision of law until after the termination of the imprisonment, which is similar in principle to the provision in section 19 of the existing law. Particular attention is directed to the fact that an alien violating the provisions of section 8 or 9 of the bill is not to be deported until after the termination of the imprisonment to which he may be sentenced under such sections.

"(9) An alien who was convicted, or who admits the commission, prior to entry, of an offense involving moral turpitude." There is no change of substance in this paragraph. It would be inadvisable to substitute for the "moral turpitude" test the length of sentence test as to aliens convicted of offenses in foreign countries where standards of punishment are so variant. It should be observed that the provision of existing law, relieving the alien from deportation if he has been pardoned, has been removed in this class of deportable aliens, while retained for the purposes of paragraphs (6), (7), and (8) above quoted.

VIOLATION OF NARCOTIC LAWS AND WHITE SLAVE TRAFFIC ACT

"(10) An alien who has, after the enactment of the deportation act of 1925, violated or conspired to violate, whether or not convicted of such violation or conspiracy, (A) the white slave traffic act, or any law amendatory of, supplementary to, or in substitution for, such act; or (B) any statute of the United States prohibiting or regulating the manufacture, possession, sale, exchange, dispensing, giving away, transportation, importation, or exportation of opium, coca leaves, or any salt, derivative, or preparation of opium or coca leaves." This is a new provision and puts this class of aliens into the same category as alien prostitutes, so far as deportation is concerned, are placed by the existing law and paragraph (11) following.

Where it can be established in any manner, by immigration officials or otherwise, that an alien has violated or conspired to violate these particular laws he may be immediately taken into custody and deported without awaiting his conviction for such offense, just as under existing law the immigration authorities may summarily arrest and deport aliens found practicing prostitution or connected with the business of prostitution. An alien may still be deported under the provisions of section 2 of the act of February 9, 1909, as amended, relating to the importation of narcotics, although this paragraph furnishes a supplementary basis for deportation and

permits deportation for a violation of that act, irrespective of a conviction of a violation. The primary purpose of the paragraph, however, is to catch the large number of alien violators of the so-called Harrison Antinarcotic Act of December 17, 1914, as amended. At the present time no alien violators of the antinarcotic laws are being deported except those who have been convicted under section 2 of the act of February 9, 1909, as amended by the act of May 26, 1922, which requires knowledge or fraudulent intent. In many cases violators of the Harrison Act are given nominal or short sentences, and in the case of such violators who are given sentences of one year or more, the Solicitor of the Labor Department has held that such offenses do not involve moral turpitude. The question has not been settled by the courts for the reason that, in view of the solicitor's holding, the department has not attempted to deport in such cases.

PROSTITUTES

"(11) An alien who is found practicing prostitution or is an inmate of, or connected with the management of, a house of prostitution, or who receives, shares in, or derives benefit from any part of the earnings of any prostitute, or who manages or is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes or where prostitutes gather, or who in any way assists any prostitute, or protects or promises to protect from arrest any prostitute, or who imports or attempts to import any person for the purpose of prostitution, or for any other immoral purpose, or who enters for any such purpose, or who has been convicted and imprisoned for a violation of any of the provisions of section 4 hereof." The provisions of section 19 of the 1917 act relating to prostitution as a ground for deportation have been changed in but two respects:

First, there is added as an additional class of deportable persons any alien entering the United States for the purpose of prostitution or for any other immoral purpose; and

Second, there is omitted the provision of the present law which makes deportable any alien who, after being excluded and deported or arrested and deported under the provisions relating to the deportation of prostitutes and other immoral persons, returns to and enters the United States. This language is omitted as being surplusage. Section 8 of the bill provides for the exclusion from admission of any person deported from the United States on any ground whatsoever, and paragraph (1) of subdivision (a) of section 19 as rewritten makes deportable any person who, at the time of entry, belongs to any of the classes excluded by law. It becomes unnecessary, therefore, to repeat the language of the present law specifically as to these classes of undesirable aliens.

AILING ALIENS TO EVADE IMMIGRATION LAWS

"(12) An alien who conceals or harbors, attempts to conceal or harbor, or aids, assists, or abets any other person to conceal or harbor, any alien liable to deportation." This is a new provision, which needs no comment.

"(13) An alien who aids or assists in any way any alien to unlawfully enter the United States." This is also a new provision and is in addition to the penalties prescribed by section 8 of the act of 1917. Aliens in this country who seek to aid others to enter in violation of our laws should not be permitted to remain in the United States.

ALIENS IN COASTWISE TRADE

"(14) An alien who is found employed on a vessel engaged in the coastwise trade of the United States without having been admitted to the United States for permanent residence." A fair construction of existing law would seem to prohibit aliens from serving on such vessels, since alien seamen not regularly admitted to the United States as immigrants are allowed to land only temporarily for medical treatment or for the purpose of reshipping, within a limited period specified by regulation, on board another vessel bound to a foreign port or place. Notwithstanding this, large numbers of these alien seamen are now employed on vessels in the coastwise trade to the detriment of American seamen. This provision would materially strengthen the enforcement of the laws applicable to seamen and state affirmatively what the law now implies, and in addition would make the alien deportable even if his service on the coastwise vessel was within the period during which the regulations permit him to remain in the United States for the purpose of reshipping foreign.

ALIEN BELONGING TO MORE THAN ONE DEPORTABLE CLASS

Subdivision (h) of the proposed new section 19 of the act of 1917 is put in out of an abundance of caution to make it clear that it is the intention of Congress that an alien who is liable to deportation upon any ground specified in any paragraph of such section 19 shall be deported whether or not he is liable to deportation upon a ground specified in any other paragraph of the bill or in any other law. For instance, if an alien violates the narcotic drugs import and export act, he is to be deported (under paragraph (10) of subdivision (a) of section 19), even though he has not been convicted of the violation and, consequently, is not deportable under section 2 of such act. So, also, if he is one of the anarchistic classes made deportable by the act of October 16, 1918, as amended, he is to be deported regardless of whether he is or is not subject to deportation upon some other ground specified in the bill.

ANARCHISTIC CLASSES

The bill, in rewriting section 19 of the 1917 act and in enumerating the grounds for deportation, omits that part of section 19 which places among the deportable classes aliens advocating or teaching anarchy or the overthrow by force or violence of the United States Government, etc. This is omitted because it has been superseded by the act of October 16, 1918, as amended by the act of June 5, 1920, which contains full and detailed provisions for the deportation of the anarchistic classes. These laws are not repealed by the bill.

ALIENS FROM INSULAR POSSESSIONS

The bill also omits another provision found in section 19 of the 1917 act, to the effect that the section (relating to the arrest and deportation of aliens) shall also apply "to the case of aliens who come to the mainland of the United States from the insular possessions thereof." This provision is omitted as surplusage. The provisions of section 19 as rewritten clearly make deportable any alien who falls within any of the classes there enumerated, regardless of where he came from. If the alien is in the continental United States he may be deported even though he may have come from a possession, and if he is in one of the possessions he may be deported even though he came from the United States.

MARRIAGE AS RELIEF FROM DEPORTATION

Section 19 of the 1917 act provides that the marriage to an American citizen of a woman of the sexually immoral classes deportable by law shall not confer citizenship if the marriage is solemnized after the arrest or after the commission of the acts making her liable to deportation. This provision was necessary at the time of the passage of the 1917 act, because at that time marriage of a woman to an American citizen made her an American citizen. Since the passage of the act of September 22, 1922, marriage no longer confers citizenship, and this provision of the 1917 act is omitted as surplusage. It is not necessary to provide that this class of women can not be naturalized, for the naturalization laws already require good moral character as a condition precedent to naturalization.

PART IV. PROCEDURE IN ARREST AND DEPORTATION CASES

ARREST, HEARING, AND ORDER OF DEPORTATION

The existing law contains no rule as to carrying on the proceedings for the arrest and deportation of undesirable aliens. It merely provides that the deportable alien shall, "upon the warrant of the Secretary of Labor, be taken into custody and deported." Under the system put into effect by regulations various immigration officials in the field having reason to believe that an alien is deportable apply to the Secretary of Labor at Washington for a warrant of arrest. Inasmuch as it is impossible for the Secretary to know whether or not the facts presented are sufficient to justify an arrest, it has become the practice in nearly every case to issue a warrant of arrest whenever applied for from the officer in the field. All this takes time and seems to the committee a useless waste of time and money. The bill, therefore, provides (in subdivision (d) of section 19 of the 1917 act as amended by the bill) for the issuance of warrants of arrest either by the Commissioner General of Immigration or by any official authorized by the Commissioner General of Immigration to issue warrants of arrest.

Inasmuch as the Constitution affords aliens as well as citizens due process of law, it seemed to the committee that the statute itself should give the right to notice and hearing. On the other hand, the committee felt that the procedure should be as simple and non-technical as possible. The bill therefore provides that the alien shall be given a hearing before an immigrant inspector, who shall transmit the evidence to the Secretary of Labor. The Secretary is to make an order either releasing the alien or ordering his deportation, but the Secretary's decision is to be based solely on the evidence taken at the hearing, except that he may send the case back for the taking of additional evidence or order the case reheard by another immigrant inspector.

In order to avoid technical objections based upon the insufficiency of grounds stated in the warrant of arrest, and at the same time to show clearly the legislative intent that the alien is not to be deported until he has had notice and hearing upon the grounds upon which he is deported, the bill provides that the order of deportation shall refer to the particular provisions of law under which the alien is ordered deported, and shall briefly state the grounds upon which such provisions are applicable to the alien. It is then provided that the alien shall not be deported unless he was afforded, at the hearing before the immigrant inspector, an opportunity after notice to be heard upon the grounds stated in the order of deportation. This means, for example, that if in the warrant of arrest or in the course of the proceedings six charges are brought against the alien and he is given an opportunity to be heard after notice on only two of the six charges, the order of deportation will be valid if it states that he is deported upon either or both of the grounds as to which he was given notice and hearing, but will be void if it states that he is deported on any of the four grounds as to which he has not been given notice or hearing.

The bill provides, as does the existing law, that the decision of the Secretary of Labor in every case of deportation shall be final. This provision has been considered by the Supreme Court as meaning that the decision of the Secretary is final only if the alien has in fact had due process of law, but the court has refused to overturn the decision of the Secretary unless it appears, (1) that his action has been arbitrary, or (2) that there is no evidence on which to support the finding, or (3) that the alien has not had proper notice and opportunity to be heard, or (4) that the Secretary has misconstrued the law. In no case does the court have the right to review the evidence for the purpose of determining whether or not the weight of evidence supports the finding of the Secretary. If there is evidence in support of his finding, the court will sustain it even though, were the matter before the court originally, the court would have reached a conclusion opposite to that which the Secretary has reached. The arrested person has the right to a judicial determination of his claim of citizenship, unless such claim is plainly frivolous.

The system as outlined adequately protects the rights of the alien to the fullest extent possible under any system which is administratively practicable, it being remembered that, from the nature of the case, the proceedings must be expeditious and free from the burden-

some requirements necessary to a judicial proceeding. The careful examination of the record and of the law in the department, which will be necessary before the order of deportation is issued, will relieve the courts in habeas corpus proceedings of any necessity of a detailed examination of the proceedings at the hearing to determine whether or not the alien has been afforded due notice and opportunity to be heard on numerous charges which, as a matter of fact, have never entered into the decision of the Secretary.

RELEASE UNDER BOND

Subdivision (e) of the proposed new section 19 is a revision of the last sentence of section 20 of the existing law. Under this provision an alien taken into custody for deportation may be released under a bond in the penalty of not less than \$1,000, whereas under the existing law the amount of the penalty is \$500. The existing law provides that there shall also be furnished "surety approved by the Secretary of Labor." The provision in the bill is that "such bond shall have surety approved, under regulations prescribed by the Commissioner General of Immigration with the approval of the Secretary of Labor, (1) by the Commissioner General of Immigration, or (2) by any official authorized by the Commissioner General of Immigration to approve such bonds." This administrative change in the handling of bonds and sureties will eliminate the present practice of requiring the approval of the Secretary of Labor in the thousands of individual cases and will also expedite the release of the arrested alien by authorizing the approval of such bonds and sureties by officers in the field. The Secretary of Labor it is believed, retains just as effectively, through the power to approve regulations, the same control over the kind of bond or surety as he now exercises by approving the bond in each instance. The subdivision contemplates, of course, that an alien may not be released at all without giving a bond, which in no case shall be in an amount less than \$1,000, and presupposes that the surety shall in each case be of a character which will assure the appearance of the alien when required.

PROCEDURE IN CASE OF ALIEN SEAMEN

Section 34 of the immigration act of 1917 reads as follows:

SEC. 34. That any alien seaman who shall land in a port of the United States contrary to the provisions of this act shall be deemed to be unlawfully in the United States, and shall, at any time within three years thereafter, upon the warrant of the Secretary of Labor, be taken into custody and brought before a board of special inquiry for examination as to his qualifications for admission to the United States, and if not admitted said alien seaman shall be deported at the expense of the appropriation for this act as provided in section twenty of this act.

It will be noticed that this section (1) places a statute of limitation of three years from the time of landing upon the deportation of alien seamen, (2) affords a seaman a right to be heard before a board of special inquiry, and (3) apparently allows his admission unless he is at the time of such hearing a member of one of the excluded classes. No reason was apparent to your committee why a seaman should be granted any of these privileges, which are not

granted to any other class of aliens, and it is therefore provided in the bill (subdivision (b) of section 5) that this section be repealed. The effect of this repeal will be to place the seaman upon the same plane as any other alien so far as the procedure in deportation cases is concerned.

PAYMENT OF EXPENSES

Subdivisions (f) and (g) of the proposed new section 19 constitute a revision, with certain changes, of that part of section 20 of the existing law relating to the expenses of the deportation of aliens who are arrested and deported. Under the bill if the alien was unlawfully induced to enter the United States, his deportation, including the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom he was unlawfully induced to enter the United States, whereas under the existing law his deportation, including only one-half of the entire cost of removal to the port of deportation, is at the expense of such person. Under the provisions of the bill the owner, agent, or consignee of the vessel or transportation line by which an alien came to the United States must bear the expense of the deportation of such alien from the port of deportation to the place designated under subdivision (a) of section 20 unless (1) the deportation is made by reason of causes arising subsequent to entry (such as the commission of crime after entry), or (2) deportation proceedings are begun later than five years after the entry of the alien and it can not be shown that the owner, agent, or consignee of the vessel bringing such alien knew or could have known by the exercise of reasonable diligence that the alien would be subject to deportation, or (3) there is a contractor, procurer, or other person who unlawfully induced such alien to enter the United States and from whom the Government has collected the expenses of deportation, including the cost of removal to the port. The bill provides that where liability for the expense of deportation can not be ascertained or enforced, or where no liability for such expense is imposed by law, such expense shall be payable by the Government.

PART V. PROVISIONS COMMON TO EXCLUSION AND ARREST

PLACE TO WHICH DEPORTED

Section 20 of the existing law states "that the deportation of aliens provided for in this act shall, at the option of the Secretary of Labor, be to the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subject or citizens of such country, and such country refuses to permit their reentry, or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they

resided prior to entering the country from which they entered the United States." The proposed new section 20 attempts to restate these provisions in a more orderly manner and enlarges the number of places to which the alien may be deported. Instead of leaving the destination of a deported alien in the option of the Secretary of Labor, the bill provides that the destination shall be specified under regulations prescribed by the Commissioner General of Immigration, with the approval of the Secretary of Labor.

The bill provides that in the case of an alien entering from foreign contiguous territory, he may be deported to such territory, or to the country of which he is a citizen or subject, or to the foreign port at which he embarked for such territory (irrespective of whether he has acquired a domicile in such territory), whereas under the existing law the only place specified in such a case is to the foreign port at which he embarked for such territory. In any case, an alien may be deported to the country (if any) in which he resided prior to entering the country from which he embarked for the United States or for foreign contiguous territory in lieu of deportation to the country of which he is a citizen or subject, or the foreign port at which he embarked for the United States or for foreign contiguous territory, or to such territory if he has entered therefrom. Under existing law, deportation into such a country is conditioned upon the refusal of the country from which such alien entered the United States to receive back the alien, either absolutely or conditionally, whereas the proposed bill removes such condition.

EMPLOYMENT OF ATTENDANTS

Subdivision (b) of the proposed new section 20 is a revision of the last proviso in section 20 of the existing law, but is expanded to provide that when, in the opinion of the Secretary of Labor, the mental or physical condition of an excluded alien is such as to require personal care and attention, he shall in such case, when necessary, as also in the case of an alien arrested and ordered deported, employ a suitable person for that purpose, who shall accompany such alien to his final destination, and the expense incident to such service shall be defrayed in the same manner as the expense of deporting the accompanying alien is defrayed. This would, of course, mean that a steamship company bringing an inadmissible alien who would require personal care and attention upon the return voyage would be obliged to defray the expenses of the accompanying person.

SUSPENSION OF DEPORTATION FOR DISABILITY

Subdivision (c) of the proposed new section 20 is intended to replace the following provisions in section 18 of the existing law: "No alien certified, as provided in section 16 of this act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless the Secretary of Labor is satisfied that to refuse treatment would be inhumane or cause unusual

hardship or suffering, in which case the alien shall be treated in the hospital under the supervision of the immigration officials at the expense of the vessel transporting him: *Provided further*, That upon the certificate of an examining medical officer to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported."

The bill provides that if it appears to the satisfaction of the Secretary of Labor that immediate deportation in the case of an alien who is arrested and ordered deported, as well as in the case of an alien excluded, before hospital treatment for sickness or mental or physical disability, would cause unusual hardship or suffering, he may suspend temporarily the deportation of such alien solely for the purpose of placing him in a hospital. As the existing law is worded, an alien "suffering from tuberculosis in any form or from a loathsome or dangerous contagious disease other than one of quarantinable nature" shall not be permitted to land for medical treatment unless the Secretary of Labor is satisfied that it would be inhumane to refuse treatment or cause unusual hardship or suffering. Nothing is said as to other cases of illness where the element of contagion is absent. Since many cases of sickness and disability other than from causes specified in the existing law arise where it would be equally inhumane to deport before hospital treatment, it is thought that the provision should be broad enough to cover all such cases and also that the benefit of this provision should be affirmatively afforded to persons who are arrested and deported as well as to excluded aliens. The term "sickness, mental or physical disability" is the same as used in the case of an excluded alien under subdivision (b) of section 18. The term "inhumane" is omitted as surplusage, since if it would cause unusual hardship or suffering to deport immediately, naturally it would be inhumane to deport.

The provision in existing law "that no alien * * * shall be permitted to land for medical treatment * * * in any hospital in the United States," unless the Secretary finds that it would be inhumane to refuse treatment, in which case the alien shall be treated in the hospital under the supervision of immigration officials, gives rise to the inference that an excluded alien, when permitted by the Secretary to land temporarily for treatment, might choose "any hospital in the United States." The provision in the bill omits such a broad general reference and provides that deportation may be suspended temporarily solely for the purpose of placing such alien "in a hospital under the supervision of immigration or United States Public Health Service officials. There are some places where it is not practicable for the immigration officials to have direct supervision over the treatment of such aliens in hospitals, and the provision adding the term "United States Public Health Service officials" is added to take care of this situation. Specific reference to the case of an insane alien is omitted and the term "mental disability" is intended to cover such case.

No good reason is seen for a different standard to be set up in the case of the insane alien as distinguished from other cases of sickness or disability which would cause unusual hardship or suffering, nor does there seem to be any foundation for holding the insane alien for treatment at the expense of the Government while the diseased alien is held at the expense of the vessel bringing him. The provision in the bill, therefore, puts the expense of maintenance and treatment of all excluded aliens, whether diseased or insane, at the expense of the owner, agent, or consignee of the vessel bringing him, and the expense of the treatment of the alien arrested and ordered deported is to be defrayed in the same manner as the cost of removal to the port of deportation, which means at Government expense in most cases, the exception being where there is a procurer or other such person. Deportation is to be suspended only until such time as in the opinion of the Secretary of Labor the sickness or disability has been relieved to the extent that the deportation of such alien would not cause unusual hardship or suffering.

TESTIMONY OF DEPORTEE NECESSARY TO UNITED STATES

Subdivision (d) of the proposed new section 20 is a revision of the provision in section 18 of the existing law which permits the Commissioner General of Immigration, with the approval of the Secretary of Labor, to suspend deportation where the testimony of such alien is necessary on behalf of the United States in the prosecution of offenders against the immigration act of 1917 or other laws of the United States. The provision in the bill expands the provision so that it will be applicable also to the alien who is arrested and ordered deported, and provision is made for the suspension of the deportation where the testimony of the alien is "necessary in the interests of the United States in any judicial or other proceeding." The provision is thus extended to permit the detention of a deportable alien where he is needed in the interests of the United States in any kind of a proceeding. Where the alien is held in the custody of the Government officials, the provision in the bill makes it clear that the United States is to pay all the costs of maintenance and pay to the alien the witness fee now provided by law. These expenses are paid from the appropriation for the enforcement of the immigration laws, except that the Department of Justice appropriation is chargeable where deportation is suspended at the request of that department. Where it is feasible to release the alien under bond when he is held as a witness, it is provided that the cost of his maintenance shall not be borne by the United States.

PENAL PROVISIONS

Subdivisions (e) and (f) of the proposed new section 20 constitute a combination and revision of, and additions to, the penal provisions contained in sections 18 and 20 of the 1917 act.

Changes are made in the penalties to conform to the proposed changes made in other parts of the law. For instance, subdivision (a) of section 20 specifies various places to which excluded aliens

may be deported. The penal provision in the bill, therefore, makes it unlawful for the person in charge, etc., of any vessel to fail or refuse to transport such aliens "to the place designated" (under regulations prescribed by the Commissioner General of Immigration, with the approval of the Secretary of Labor) instead of simply "to the foreign port from which they came," as the existing law provides. The penalty for failure "to pay the costs imposed in pursuance of law in respect of any alien" is intended to cover all costs of maintenance, hospitalization, deportation, and all other expenses which are imposed by law upon the owner, agent, or consignee, etc., of any vessel. Section 15 of the act of 1917 provides that "the immigration officials may order a temporary removal" of arriving aliens for examination at a designated time and place. The provision of the bill includes a penalty for failure by the person in charge, etc., of any vessel to remove such aliens, or to detain them on board, as the immigration officials may order.

The existing law provides a penalty for any person in charge, etc., of a vessel "knowingly to bring to the United States at any time within one year from the date of deportation any alien rejected or arrested and deported under any provision of this act [of 1917] unless prior to reembarkation the Secretary of Labor has consented that such alien shall reapply for admission." The provision in the bill provides a penalty for the person in charge, etc., of a vessel "knowingly to bring to the United States any alien excluded or arrested and deported under any provision of law until such time as such alien may be lawfully entitled to enter the United States." There appears to be no reason why the person in charge, etc., of a vessel should not be penalized for knowingly bringing an alien who has been deported so long as it is unlawful for him to reenter the United States. This means that in the case of an alien arrested and deported it is unlawful for him to return at all, and in the case of an alien excluded and deported it is unlawful for him to return within one year from the date of such deportation unless the Secretary of Labor has, prior to the expiration of the year, consented to his reapplying for admission.

The amount of the penalty for each violation is increased from \$300 to \$1,000. The duties imposed are of an imperative nature and are such as could and should be uniformly complied with. Instances have arisen where the owner of the vessel has found it cheaper to pay the fine than to comply with the law and has, therefore, simply refused to comply. There seems to be good ground for making the amount of the penalty sufficient to insure compliance with these provisions of law. An additional provision for securing the amount of the fines imposed is proposed by the bill. It would authorize the Government to forfeit any vessel by a proceeding by libel in rem in admiralty where the responsible person has failed to pay the fines imposed, within 10 days after their imposition, in respect of violations by the person in charge, etc., of such vessel or of any other vessel owned or operated by the same interests, and after clearance has been denied to such vessel for failure to pay the fines. Where there is any question as to liability to such fine, the present provision of law is retained whereby a sum sufficient to cover the fine may be deposited with the collector of customs pending the

determination of the liability. A further provision is added that permits the Secretary of Labor to deny to any vessel or company persistently violating the provisions of subdivision (e) of the proposed section 20, the privilege of landing alien immigrant passengers at United States ports for such period as he deems necessary to secure a compliance with the law by such offenders.

PART VI. MISCELLANEOUS PROVISIONS

READMISSION OF DEPORTED ALIENS

Under section 3 of the immigration act of 1917 one of the classes excluded from admission consists of persons who have been deported under any of the provisions of that act and who may again seek admission within one year unless they have obtained permission from the Secretary of Labor to reapply for admission. A serious situation has arisen particularly on our land borders, whereby people deported to contiguous countries turn around and come back again without further penalty than exclusion or another deportation. No matter how serious the offense for which deported, an alien can under existing law, except in a few limited cases (as prostitutes, anarchists, and war-time offenders), if otherwise admissible, reenter the United States after one year from the date of his deportation and can apply to the Secretary for readmission at any time within that period. Subdivision (d) of section 8 of the bill retains so much of the provision of the present law referred to as applies to aliens who have been excluded on arrival and sent back. They, as heretofore, are prohibited from coming back within one year unless they have obtained the consent of the Secretary of Labor. Subdivision (a) of section 8, however, provides that if any alien has been arrested and deported he shall be excluded from admission to the United States, and imposes fine or imprisonment or both upon him if he enters or attempts to enter the United States. At the termination of the imprisonment he will be deported under paragraph (1) of subdivision (a) of section 19 of the 1917 act as rewritten by the bill.

Owing to the inadequacy of the appropriations now made for enforcement of deportation provisions under existing law, the Department of Labor has, in many cases, after a warrant of deportation has been issued, refrained from executing the warrant and deporting the alien, at the expense of the appropriation, to the country to which he might be deported, upon the condition that the alien voluntarily, at his own expense, leave the United States. Some doubt exists whether an alien so departing has been "deported." Subdivision (b) of section 8 of the bill therefore removes any possible doubt on this question by providing that in such cases the alien shall be considered to have been deported in pursuance of law.

Under the present law an alien seaman upon arrival in the United States, even though he belongs to one of the excluded classes (except in cases of certain dangerous mental and physical diseases and disorders and except in the case of aliens who are not bona fide seamen), is nevertheless not excludable as in the case of any other class of aliens, but is permitted to land temporarily for the purpose of

reshipping foreign. If such a seaman stays beyond the time permitted by regulations made in pursuance of the law and is at a later date arrested and deported in pursuance of law, he may turn around and immediately return to the United States and upon arrival must again be permitted to land temporarily for the purpose of reshipping foreign. Thus he is afforded an opportunity of quitting his calling and again remaining in the United States beyond the time fixed by the law and regulations. To prevent this result it is provided in subdivision (c) of section 8 of the bill that an alien subject to exclusion from admission on the ground that he has once been deported shall, although employed as a seaman, be excluded and deported in the same manner as if he were an immigrant passenger and be entitled to none of the landing privileges allowed by law to seamen.

PENALTY FOR UNLAWFUL ENTRY

Section 9 of the bill attempts to cure one of the defects of the present law by imposing a criminal penalty upon any alien who enters the United States at any time or place other than as designated by immigration officials, or eludes examination or inspection or obtains entry by a false or misleading representation, or a willful concealment of a material fact. Under the present law all that can be done to such an alien is to deport him. It is believed that if the class of aliens who are endeavoring to enter the United States surreptitiously become aware that when detected they will be fined and imprisoned, as well as deported, the number who attempt to smuggle themselves or have themselves smuggled into the United States will be materially lessened. It should be noted that the punishment of fine or imprisonment is not in substitution for deportation. After the sentence has been served the alien will be deported, under paragraph (2) of subdivision (a) of section 19 of the act of 1917 as rewritten by the bill.

SECTION 33 OF THE IMMIGRATION ACT OF 1917

Section 32 of the immigration act of 1917 imposed a penalty upon the owner or master of a vessel for failure to detain alien seamen on board in certain cases. This section was repealed by the immigration act of 1924, the substance of it being incorporated in sections 19 and 20 thereof. Section 33 of the immigration act of 1917 provided that it should be unlawful and be deemed "a violation of the preceding section" to pay off or discharge any alien employed aboard any vessel arriving in the United States unless "duly admitted" pursuant to the immigration laws. It will be noted that, since section 32 of the act of 1917 has been repealed, there is no longer any "preceding section" to which section 33 can refer. Section 5 of the bill amends section 33 of the immigration act of 1917 by striking out the words "preceding section" and inserting in lieu thereof "section 20 of the immigration act of 1924," thus making the unlawful paying off or discharge of alien seamen a violation of section 20 of the immigration act of 1924, which provides appropriate penalties. Section 5 of the bill also amends section 33 of the 1917 act by inserting the words "for permanent residence" after the words "duly

admitted," in order to make it clear that it is unlawful to pay off or discharge an alien seaman unless he has been duly admitted for permanent residence, but the bill does not (except as provided in section 8 of the bill, which is above explained in this report) disturb the provisions of section 33 of the 1917 act permitting alien seamen to land for the purpose of reshipping foreign, and permitting his discharge for such purpose.

PENDING CASES

Section 7 of the bill provides that the act is not to affect any deportation proceeding in which the warrant of arrest has been issued before the enactment of the act. As pointed out previously, the provisions of existing law relating to deportation after conviction of crime have been greatly enlarged. The crimes to which the new provisions relate, however, are confined to crimes committed after the enactment of this act. Inasmuch as the old law is repealed, there might arise a case where a crime involving moral turpitude has been committed before the enactment of this act and hence conviction for this crime, no matter for what length of time the alien might be sentenced, could not constitute a ground for deportation. Section 7 of the bill therefore provides that the provisions of existing law regarding deportation after conviction for crime involving moral turpitude shall remain in force in cases where the crime was committed before the enactment of this act.

APPENDIX A

THE BILL AS REPORTED

[H. R. 11796, Sixty-eighth Congress, second session]

A BILL To provide for the deportation of certain aliens, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "deportation act of 1925."

SEC. 2. Sections 18, 19, and 20 of the act of February 5, 1917, entitled "An act to regulate the immigration of aliens to, and the residence of aliens in, the United States," are amended to read as follows:

"SEC. 18. (a) Every alien who upon arrival in the United States is not found to be entitled to enter the United States shall be excluded, and deported in accommodations of the same class as in which he arrived. Deportation shall be immediate, unless the deportation of such alien is suspended in pursuance of subdivision (c) of this section or subdivision (c) or (d) of section 20. Deportation shall be on the vessel bringing such alien to the United States, unless it appears to the satisfaction of the immigration official in charge at the port of arrival that deportation on such vessel is not practicable or proper, in which case deportation shall be on a vessel owned or operated by the same interests, unless it appears to the satisfaction of such official that deportation on such a vessel is not practicable or proper, in which case deportation shall be made otherwise. No alien employed on board a vessel arriving in the United States shall in any case be deported on such vessel or on any vessel owned or operated by the same interests, unless it appears (under regulations prescribed by the Commissioner General of Immigration, with the approval of the Secretary of Labor) to the satisfaction of the immigration official in charge at the port of arrival that deportation in any other manner would be impracticable.

"(b) If an excluded alien certified by an examining medical officer to be helpless on account of sickness, mental or physical disability, or infancy, is accompanied by another alien whose protection or guardianship is required by such excluded alien, such accompanying alien may also be excluded and deported in the same manner as if personally subject to exclusion and deportation.

"(c) An alien employed on board any vessel arriving at a port of the United States who is certified by a medical officer of the United States Public Health Service to be afflicted with idocy, imbecility, insanity, epilepsy, tuberculosis in any form, or a loathsome or dangerous contagious disease, shall be placed in a hospital designated by the immigration official in charge at the port of arrival for treatment at the expense of the owner, agent, or consignee of the vessel without deduction from his wages. Upon certification by such a medical officer that the alien has been cured, he shall be permitted to enter the United States temporarily under the same conditions and limitations as if the vessel had arrived on the day of his discharge from the hospital; but if it appears to the satisfaction of the immigration official in charge at the port of arrival that it will not be possible within a reasonable time to effect a cure, such alien shall be deported, subject to the same conditions and limitations as in the case of any other alien subject to exclusion and deportation by reason of being afflicted with such disability or disease, except as otherwise provided in subdivision (a).

"(d) The cost of the maintenance of every alien removed from the vessel bringing him, pending examination for admission to the United States, or pending deportation when he has been ordered deported, or while deportation is suspended under subdivision (c) of section 20, or while he is in hospital under the provisions of subdivision (c) of this section, including in all the above cases medical and hospital treatment, and burial expenses not to exceed \$125 in case of death, the cost of his removal to and from the vessel, and the

cost of his deportation, shall (except as otherwise provided by subdivision (c) or (d) of section 20) be borne by the owner, agent, or consignee of the vessel bringing him. If any vessel bringing aliens to the United States attempts to depart while the status of aliens brought by it remains undetermined or while the deportation of any such alien is suspended, the immigration official in charge at the port of arrival may, under regulations prescribed by the Commissioner General of Immigration with the approval of the Secretary of Labor, require the owner, agent, or consignee of such vessel to give bond to the United States in an amount estimated by such immigration official to be necessary to cover all such costs, with surety to secure the payment thereof approved by the collector of customs, conditioned that such costs shall be duly paid, and no such vessel shall be granted clearance until such bond is given or a sum equal to the estimated amount of costs is deposited with the collector of customs. Such immigration official may from time to time require such additional bond or sums as he estimates may be necessary to cover such further costs as may accrue. If the vessel has been granted clearance, such vessel, if subsequently arriving in a port of the United States, or any other vessel owned or operated by the same interests, may, subject to the same conditions, be denied clearance. If the owner, agent, or consignee of a vessel fails or refuses to pay promptly all such costs, such costs may be paid from the appropriation for the enforcement of this act and recovered by the United States from the owner, agent, or consignee of such vessel.

"SEC. 19. (a) At any time after entering the United States (whether the entry was before or after the enactment of the deportation act of 1925) the following aliens shall be taken into custody and deported:

"(1) An alien who at the time of entry was a member of one or more of the classes excluded by law from admission to the United States;

"(2) An alien who entered the United States at any time or place other than as designated by immigration officials, or who eluded examination or inspection, or who obtained entry by a false or misleading representation, or the failure to disclose material facts;

"(3) An alien who remains in the United States for a longer time than authorized by law or regulations made under authority of law;

"(4) An alien who is a public charge from causes not affirmatively shown to have arisen subsequent to entry into the United States;

"(5) An alien who, from causes not affirmatively shown to have arisen subsequent to entry into the United States, is an idiot, imbecile, feeble-minded person, epileptic, insane person, person of constitutional psychopathic inferiority, or person with chronic alcoholism;

"(6) An alien who is convicted of any offense (committed after the enactment of the deportation act of 1925) for which he is sentenced to imprisonment for a term of one year or more;

"(7) An alien who is convicted of any offense (committed after the enactment of the deportation act of 1925) for which he is sentenced to imprisonment for a term which, when added to the terms to which sentenced under one or more previous convictions of the same or any other offense (committed after the enactment of the deportation act of 1925), amounts to eighteen months or more;

"(8) An alien who is convicted of a violation of, or conspiracy to violate (committed or entered into after the enactment of the deportation act of 1925), any statute of the United States or a State or Territory prohibiting or regulating the manufacture, possession, sale, exchange, dispensing, giving away, transportation, importation, or exportation of intoxicating liquors for beverage purposes, for which he is sentenced to imprisonment for a term which, when added to the terms to which sentenced under one or more previous convictions of a violation of or conspiracy to violate any of such statutes (such previous violations or conspiracies having been committed or entered into after the enactment of the deportation act of 1925), amounts to one year or more;

"(9) An alien who was convicted, or who admits the commission, prior to entry, of an offense involving moral turpitude;

"(10) An alien who has, after the enactment of the deportation act of 1925, violated or conspired to violate, whether or not convicted of such violation or conspiracy, (A) the white slave traffic act, or any law amendatory of, supplementary to, or in substitution for, such act; or (B) any statute of the United States prohibiting or regulating the manufacture, possession, sale,

exchange, dispensing, giving away, transportation, importation, or exportation of opium, coca leaves, or any salt, derivative, or preparation of opium or coca leaves;

"(11) An alien who is found practicing prostitution or is an inmate of, or connected with the management of, a house of prostitution, or who receives, shares in, or derives benefit from, any part of the earnings of any prostitute, or who manages or is employed by, in, or in connection with, any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes or where prostitutes gather, or who in any way assists any prostitute, or protects or promises to protect from arrest any prostitute, or who imports or attempts to import any person for the purpose of prostitution, or for any other immoral purpose, or who enters for any such purpose, or who has been convicted and imprisoned for a violation of any of the provisions of section 4 hereof;

"(12) An alien who conceals or harbors, attempts to conceal or harbor, or aids, assists, or abets any other person to conceal or harbor, any alien liable to deportation;

"(13) An alien who aids or assists in any way any alien to unlawfully enter the United States;

"(14) An alien who is found employed on a vessel engaged in the coastwise trade of the United States without having been admitted to the United States for permanent residence.

"(b) No conviction shall serve as a basis for deportation proceedings under paragraph (6), (7), or (8) of subdivision (a) unless such conviction is in a court of record and the judgment on such conviction has become final. In the case of a sentence for an indeterminate term in which the minimum term under the sentence is less than one year, the term actually served shall, for the purposes of paragraphs (6), (7), and (8) of subdivision (a), be considered the term for which sentenced. An alien who has been pardoned after conviction of an offense as specified in paragraph (6), (7), or (8) of subdivision (a) shall not be deported.

"(c) An alien sentenced to imprisonment shall not be deported under any provision of law until after the termination of the imprisonment.

"(d) Proceedings for the deportation of aliens under this section or under any law providing for the arrest and deportation of aliens after entry into the United States shall be begun by taking the alien into custody under a warrant of arrest issued (1) by the Commissioner General of Immigration, or (2) by any official authorized by the Commissioner General of Immigration to issue warrants of arrest. Every alien so arrested shall be given a hearing under regulations prescribed by the Commissioner General of Immigration, with the approval of Secretary of Labor, before an immigrant inspector designated under such regulations. The immigrant inspector shall, under such regulations, transmit the evidence taken at the hearing to the Secretary of Labor. The Secretary shall make an order releasing the alien or ordering his deportation, and his decision shall be based solely on the evidence taken at the hearing, except that he may send the case back to the immigrant inspector before whom the hearing was had for the taking of additional evidence, or order the case reheard by another immigrant inspector. The order of deportation shall refer to the particular provisions of law under which the alien is ordered deported and shall briefly state the grounds upon which such provisions of law are applicable to the alien, but it shall not be necessary to state or summarize the evidence in the order. No alien shall be deported unless before the issuance of the order of deportation he was afforded, at the hearing before the immigrant inspector, an opportunity to be heard after notice upon the grounds stated in the order of deportation. The decision of the Secretary of Labor in every case of deportation under the provisions of this act or of any law or treaty shall be final. If any alien is arrested under the provisions of this section on the ground that he is found in the United States in violation of any other law of the United States which imposes upon him in any proceedings not under this section the burden of proving his right to remain in the United States, such alien in proceedings under this section shall have the burden of proving his right to remain in the United States.

"(e) Pending final decision of the case of any alien taken into custody for deportation, he may be released under a bond in the penalty of not less than \$1,000, conditioned that such alien will be produced whenever required by immigration officials. Such bond shall have surety approved, under regulations prescribed by the Commissioner General of Immigration with the

approval of the Secretary of Labor, (1) by the Commissioner General of Immigration, or (2) by any official authorized by the Commissioner General of Immigration to approve such bonds.

"(f) Unless the deportation of an alien is made by reason of causes arising subsequent to entry, the owner, agent, or consignee of the vessel or transportation line by which such alien came to the United States shall (except as otherwise provided by subdivision (g)), bear the expense of the deportation of such alien from the port of deportation, if deportation proceedings are instituted within five years after the entry of the alien, or, irrespective of the time of institution of such proceedings, if it can be shown that such owner, agent, or consignee knew or could have known by the exercise of reasonable diligence that such alien would be subject to deportation. Where liability for the expense of deportation can not be ascertained or enforced, or where no liability for such expense is imposed by law, such expense shall be payable from the appropriation for the enforcement of this act.

"(g) If any alien was unlawfully induced to enter the United States, the deportation of such alien, including the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom such alien was unlawfully induced to enter the United States, or, if that can not be done, the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this act, and the deportation from such port, if deportation proceedings are instituted within five years, shall be at the expense of the owner, agent, or consignee of the vessel or transportation line by which such alien came.

"(h) If any alien is liable to deportation upon any ground specified in any paragraph of this section he shall be deported whether or not he is liable to deportation upon a ground specified in any other paragraph or section of this act or in any other law, and any alien who is liable to deportation upon a ground specified in any law other than this act shall be deported whether or not he is liable to deportation upon a ground specified in this act.

"Sec. 20. (a) The deportation of aliens excluded or arrested and ordered deported shall, under regulations prescribed by the Commissioner General of Immigration with the approval of Secretary of Labor, be (1) to the country of which such aliens are citizens or subjects, or to the foreign port at which such aliens embarked for the United States, or (2) if such aliens entered from foreign contiguous territory, then to such territory, or to the country of which such aliens are citizens or subjects or to the foreign port at which they embarked for such territory, irrespective of whether such aliens have acquired a domicile in such territory, or (3) if such aliens entered foreign contiguous territory from the United States and later reentered the United States, then to such territory, or to the country of which such aliens are citizens or subjects or to the foreign port at which they originally embarked for the United States, irrespective of whether such aliens have acquired a domicile in such territory. In lieu of any country specified above, such aliens may, under such regulations, be deported to the country (if any) in which they resided prior to entering the country from which they embarked for the United States or for foreign contiguous territory. The term "foreign port" as used in this subdivision includes a port of an insular possession of the United States.

"(b) When, in the opinion of the Secretary of Labor, the mental or physical condition of an alien who is excluded or arrested and ordered deported is such as to require personal care and attendance, he shall, when necessary, employ a suitable person for that purpose, who shall accompany such alien to his final destination, and the expense incident to such service shall be defrayed in the same manner as the expense of deporting the accompanied alien is defrayed.

"(c) If it appears to the satisfaction of the Secretary of Labor, in the case of any alien excluded or arrested and ordered deported, that immediate deportation before hospital treatment for sickness or mental or physical disability would cause unusual hardship or suffering, he may suspend temporarily the deportation of such alien solely for the purpose of placing him in a hospital under the supervision of immigration or United States Public Health Service officials for treatment until such time as in his opinion such sickness or disability has been relieved to such an extent that the deportation of such alien would not cause unusual hardship or suffering. In the case of an alien subject to deportation under subdivision (a) of section 18, such treatment shall be at the expense of the owner, agent, or consignee of the vessel bringing him, and in the case of an alien arrested and ordered deported it shall be defrayed in the same manner as the cost of removal to the port of deportation.

"(d) The Commissioner General of Immigration, upon conditions prescribed by him, may, with the approval of the Secretary of Labor, suspend the deportation of any alien subject to exclusion or deportation if, in his judgment, the testimony of such alien is necessary in the interests of the United States in any judicial or other proceeding. The cost of the maintenance of any such alien (including medical and hospital treatment, and burial expenses not to exceed \$125 in case of death), and a witness fee of \$1 per day to such alien for each day while deportation is so suspended may be paid from the appropriation for the enforcement of this act unless such suspension of deportation is requested by the Department of Justice, in which case such cost and witness fee shall be paid from the appropriation for the Department of Justice. During such suspension of deportation the alien may be released under bond, in the penalty of not less than \$500, with surety approved in the same manner as provided in subdivision (e) of section 19, conditioned that such alien shall be produced when required as a witness and for deportation, and while so released the cost of his maintenance shall not be borne by the United States.

"(e) It shall be unlawful for any master, purser, person in charge, agent, owner, charterer, or consignee of any vessel to refuse or fail to receive or detain on board, and transport in the manner specified, and to the place designated, any alien ordered to be deported on such vessel in pursuance of law; or to fail to pay the costs imposed in pursuance of law in respect of any alien; or, in bringing any alien to the United States, to make any charge for the return of such alien or to take any security for the payment of such charge, or to take any consideration to be returned in case the alien is landed, or to fail to detain on the vessel or to remove temporarily such alien for examination, as ordered by immigration officials; or knowingly to bring to the United States any alien excluded or arrested and deported under any provision of law until such time as such alien may be lawfully entitled to enter the United States.

"(f) If it appears to the satisfaction of the Secretary of Labor that such master, purser, person in charge, agent, owner, charterer, or consignee of any vessel has violated any of the provisions of subdivision (e) or of section 15, the master, purser, person in charge, agent, owner, charterer, or consignee of such vessel or of any vessel owned or operated by the same interests shall pay to the collector of customs of the district in which any such vessel may be found, the sum of \$1,000 for each violation of any such provision. No such vessel shall be granted clearance pending the determination of such liability, or while such fine remains unpaid, except that clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover the fine imposed. No such fine shall be remitted or refunded. If clearance has been refused and the amount of the fine imposed has not been paid within ten days after such imposition, the vessel may be forfeited by a proceeding by libel in rem in admiralty. If it appears to the satisfaction of the Secretary of Labor that the provisions of subdivision (e) are persistently violated by or on behalf of any vessel or transportation company, the Secretary shall deny to such vessel or company the privilege of landing alien immigrant passengers at United States ports for such period as in his judgment may be necessary to insure an observance of such provisions."

SEC. 3. The first sentence of the second paragraph of section 9 of such immigration act of 1917, as amended, is amended by striking out the words "the last proviso" and inserting in lieu thereof the words "subdivision (b)." The last two sentences of section 15 of such immigration act of 1917 are repealed. Such immigration act of 1917 is further amended by adding at the end thereof a new section to read as follows:

"SEC. 39. That this act may be cited as the 'Immigration act of 1917.'"

SEC. 4. (a) Subdivisions (a), (b), and (c) of section 20 of the immigration act of 1924 are amended to read as follows:

"SEC. 20. (a) It shall be the duty of the owner, charterer, agent, consignee, or master of every vessel arriving in the United States from any place outside thereof to detain on board every alien employed on such vessel until the immigration officer in charge at the port of arrival has inspected such alien, such inspection in all cases to include a personal physical examination by the medical examiners. If it appears to the satisfaction of the Secretary of Labor that the owner, charterer, agent, consignee, or master has violated this provision, such owner, charterer, agent, consignee, or master shall pay the collector of customs of the district in which the port of arrival is located the sum of \$1,000 for each alien in respect of whom such failure occurs. No

vessel shall be granted clearance pending the determination of the liability to the payment of such fine, or while such fine remains unpaid, except that clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover the fine imposed. No such fine shall be remitted or refunded.

"(b) An alien employed on any vessel arriving in the United States from any place outside thereof may be removed from the vessel to an immigration station or other appropriate place for examination subject to the same provisions of law in respect of such removal as in the case of any other alien, and the owner, charterer, agent, consignee, or master of the vessel shall be subject to the same provisions of law, including penalties, in respect of such removal as in the case of any other alien."

(b) Subdivision (d) of section 20 of the immigration act of 1924 is amended by striking out the letter "(d)" at the beginning of such subdivision and inserting in lieu thereof the letter "(c)."

SEC. 5. (a) Section 33 of the immigration act of 1917 is amended by striking out the words "the preceding section" and inserting in lieu thereof the words "section 20 of the immigration act of 1924, as amended" and a comma, and by inserting after the word "admitted" the words "for permanent residence."

(b) Section 34 of the immigration act of 1917 is repealed.

(c) The act entitled "An act to provide for the treatment in hospitals of diseased alien seamen," approved December 26, 1920, is repealed, but shall remain in force as to all vessels, their owners, agents, consignees, and masters, and as to all seamen arriving in the United States prior to the enactment of this act.

SEC. 6. Whenever in any law heretofore enacted it is provided that any alien shall be deported, the arrest and deportation of such alien shall (regardless of the manner provided in such law) be made in the same manner as provided in sections 19 and 20 of such immigration act of 1917, as amended, and whenever in any law hereafter enacted it is provided that any alien shall be deported, the arrest and deportation shall, unless expressly provided to the contrary, be made in the same manner as provided in such sections 19 and 20.

SEC. 7. Nothing in this act shall affect any deportation proceedings in which the warrant of arrest was issued before the enactment of this act, nor relieve from deportation any alien who at the time of the enactment of this act was liable to deportation. That part of section 19 of such immigration act of 1917 which relates to the deportation of aliens convicted of a crime involving moral turpitude shall, notwithstanding the amendment of such section by this act, remain in force for the deportation of an alien where the crime was committed before the enactment of this act.

SEC. 8. (a) If any alien has been arrested and deported in pursuance of law he shall be excluded from admission to the United States whether such deportation took place before or after the enactment of this act, and if he enters or attempts to enter the United States after the expiration of thirty days after the enactment of this act, he shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than two years or by a fine of not more than \$1,000, or by both such fine and imprisonment.

(b) For the purposes of this section any alien ordered deported (whether before or after the enactment of this act) who has left the United States shall be considered to have been deported in pursuance of law, irrespective of the source from which the expenses of his transportation were defrayed, or of the place to which he departed.

(c) An alien subject to exclusion from admission to the United States under this section who is employed upon a vessel arriving in the United States shall be excluded and deported in the same manner as if he were an immigrant passenger and shall be entitled to none of the landing privileges allowed by law to seamen.

(d) So much of section 3 of the immigration act of 1917 as reads as follows: "persons who have been deported under any of the provisions of this act, and who may again seek admission within one year from the date of such deportation, unless prior to their reembarkation at a foreign port or their attempt to be admitted from foreign contiguous territory the Secretary of Labor shall have consented to their reapplying for admission" is amended to read as follows: "persons who have been excluded from admission and deported in pursuance of law, and who may again seek admission within one

year from the date of such deportation, unless prior to their reembarkation at a place outside the United States or their attempt to be admitted from foreign contiguous territory, the Secretary of Labor has consented to their reapplying for admission."

SEC. 9. Any alien who enters the United States at any time or place other than as designated by immigration officials, or eludes examination or inspection by immigration officials, or obtains entry to the United States by a false or misleading representation or the willful concealment of a material fact, shall be guilty of a misdemeanor, and, upon conviction, shall be punished by imprisonment for not more than one year or by a fine of not more than \$1,000, or by both such fine and imprisonment.

SEC. 10. Upon the final conviction of any alien of any offense in any court of record of the United States or of any State or Territory, it shall be the duty of the clerk of the court to notify the Secretary of Labor, giving the name of the alien convicted, the nature of the offense of which convicted, the sentence imposed, and, if imprisoned, the place of imprisonment, and, if known, the place of birth of such alien, his nationality, and the time when and place where he entered the United States.

SEC. 11. If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

APPENDIX B

DEPORTATION SECTIONS (SECS. 18, 19, AND 20) OF THE IMMIGRATION ACT OF FEBRUARY 5, 1917

SEC. 18. That all aliens brought to this country in violation of law shall be immediately sent back, in accommodations of the same class in which they arrived, to the country whence they respectively came, on the vessels bringing them, unless in the opinion of the Secretary of Labor immediate deportation is not practicable or proper. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came. That it shall be unlawful for any master, purser, person in charge, agent, owner, or consignee of any such vessel to refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens; or to fail to detain them thereon; or to refuse or fail to return them in the manner aforesaid to the foreign port from which they came; or to fail to pay the cost of their maintenance while on land; or to make any charge for the return of any such alien, or to take any security for the payment of such charge; or to take any consideration to be returned in case the alien is landed; or knowingly to bring to the United States at any time within one year from the date of deportation any alien rejected or arrested and deported under any provision of this act, unless prior to reembarkation the Secretary of Labor has consented that such alien shall reapply for admission, as required by section three hereof; and if it shall appear to the satisfaction of the Secretary of Labor that such master, purser, person in charge, agent, owner, or consignee has violated any of the foregoing provisions, or any of the provisions of section fifteen hereof, such master, purser, person in charge, agent, owner, or consignee shall pay to the collector of customs of the district in which the port of arrival is located, or in which any vessel of the line may be found, the sum of \$300 for each and every violation of any provision of said sections; and no vessel shall have clearance from any port of the United States while any such fine is unpaid, nor shall such fine be remitted or refunded: *Provided*, That clearance may be granted prior to the determination of such question upon the deposit with the collector of customs of a sum sufficient to cover such fine. If the vessel by which any alien ordered deported came has left the United States and it is impracticable for any reason to deport the alien within a reasonable time by another vessel owned by the same interests, the cost of deportation may be paid by the Government and recovered by civil suit from any agent, owner, or consignee of the vessel: *Provided further*, That the Commissioner General of Immigration, with the approval of the Secretary of Labor, may suspend, upon conditions to be prescribed by the Commissioner General of Immigration, the deportation of any aliens found to have come in violation of any provision of

this act if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this act or other laws of the United States; and the cost of maintenance of any person so detained resulting from such suspension of deportation, and a witness fee in the sum of \$1 per day for each day such person is so detained, may be paid from the appropriation for the enforcement of this act, or such alien may be released under bond, in the penalty of not less than \$500, with security approved by the Secretary of Labor, conditioned that such alien shall be produced when required as a witness and for deportation.

No alien certified, as provided in section sixteen of this act, to be suffering from tuberculosis in any form, or from a loathsome or dangerous contagious disease other than one of quarantinable nature, shall be permitted to land for medical treatment thereof in any hospital in the United States, unless the Secretary of Labor is satisfied that to refuse treatment would be inhumane or cause unusual hardship or suffering, in which case the alien shall be treated in the hospital under the supervision of the immigration officials at the expense of the vessel transporting him: *Provided further*, That upon the certificate of an examining medical officer to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the appropriation for the enforcement of this act, be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported: *Provided further*, That upon the certificate of an examining medical officer to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens.

Sec. 19. That at any time within five years after entry any alien who at the time of entry was a member of one or more of the classes excluded by law; any alien who shall have entered or who shall be found in the United States in violation of this act or in violation of any other law of the United States; any alien who at any time after entry shall be found advocating or teaching the unlawful destruction of property, or advocating or teaching anarchy or the overthrow by force or violence of the Government of the United States or of all forms of law or the assassination of public officials; any alien who within five years after entry becomes a public charge from causes not affirmatively shown to have arisen subsequent to landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude committed within five years after the entry of the alien to the United States, or who is hereafter sentenced more than once to such a term of imprisonment because of conviction in this country of any crime involving moral turpitude committed at any time after entry; any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who manages or is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes or where prostitutes gather, or who in any way assists any prostitute or protects or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution or for any other immoral purpose; any alien who, after being excluded and deported or arrested and deported as a prostitute or as a procurer, or as having been connected with the business of prostitution or importation for prostitution or other immoral purposes in any of the ways hereinbefore specified, shall return to and enter the United States; any alien convicted and imprisoned for a violation of any of the provisions of section four hereof; any alien who was convicted or who admits the commission prior to entry of a felony or other crime or misdemeanor involving moral turpitude; at any time within three years after entry, any alien who shall have entered the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, or who enters without inspection, shall, upon the warrant of the Secretary of Labor,

be taken into custody and deported: *Provided*, That the marriage to an American citizen of a female of the sexually immoral classes the exclusion or deportation of which is prescribed by this act shall not invest such female with United States citizenship if the marriage of such alien female shall be solemnized after her arrest or after the commission of acts which make her liable to deportation under this act: *Provided further*, That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court, or judge thereof, sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence or within thirty days thereafter, due notice having first been given to representatives of the State, make a recommendation to the Secretary of Labor that such alien shall not be deported in pursuance of this act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment: *Provided further*, That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States: *Provided further*, That the provisions of this section shall also apply to the cases of aliens who come to the mainland of the United States from the insular possessions thereof: *Provided further*, That any person who shall be arrested under the provisions of this section on the ground that he has entered or been found in the United States in violation of any other law thereof which imposes on such person the burden of proving his right to enter or remain, and who shall fail to establish the existence of the right claimed, shall be deported to the place specified in such other law. In every case where any person is ordered deported from the United States under the provisions of this act or of any law or treaty the decision of the Secretary of Labor shall be final.

SEC. 20. That the deportation of aliens provided for in this act shall, at the option of the Secretary of Labor, be to the country whence they came or to the foreign port at which such aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which they embarked for such territory; or, if such aliens entered foreign contiguous territory from the United States and later entered the United States, or if such aliens are held by the country from which they entered the United States not to be subjects or citizens of such country, and such country refuses to permit their reentry, or imposes any condition upon permitting reentry, then to the country of which such aliens are subjects or citizens, or to the country in which they resided prior to entering the country from which they entered the United States. If deportation proceedings are instituted at any time within five years after the entry of the alien, such deportation, including one-half of the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this act, and the deportation from such port shall be at the expense of the owner or owners of such vessels or transportation line by which such aliens respectively came, or, if that is not practicable, at the expense of the appropriation for the enforcement of this act. If deportation proceedings are instituted later than five years after the entry of the alien, or, if the deportation is made by reason of causes arising subsequent to entry, the cost thereof shall be payable from the appropriation for the enforcement of this act. A failure or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of Labor to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this act shall be punished by the imposition of the penalties prescribed in section eighteen of this act: *Provided*, That when in the opinion of the Secretary of Labor the mental or physical condition of such alien is such as to require personal care and attendance, the said Secretary shall when necessary employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in the same manner as the expense of deporting the accompanied alien is defrayed. Pending the final disposal of the case of any alien so taken into custody, he may be released under a bond in the penalty of not less than \$500 with security approved by the Secretary of Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into custody, and for deportation if he shall be found to be unlawfully within the United States.

APPENDIX C

AN ACT To provide for the treatment in hospital of diseased alien seamen

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That alien seamen found on arrival in ports of the United States to be afflicted with any of the disabilities or diseases mentioned in section 35 of the act of February 5, 1917, entitled "An act to regulate the immigration of aliens to, and the residence of aliens in, the United States," shall be placed in a hospital designated by the immigration official in charge at the port of arrival and treated, all expenses connected therewith, including burial in the event of death, to be borne by the owner, agent, consignee, or master of the vessel, and not to be deducted from the seamen's wages, and no such vessel shall be granted clearance until such expenses are paid or their payment appropriately guaranteed and the collector of customs so notified by the immigration official in charge: *Provided*, That alien seamen suspected of being afflicted with any such disability or disease may be removed from the vessel on which they arrive to an immigration station or other appropriate place for such observation as will enable the examining surgeons definitely to determine whether or not they are so afflicted, all expenses connected therewith to be borne in the manner hereinbefore prescribed: *Provided further*, That in cases in which it shall appear to the satisfaction of the immigration official in charge that it will not be possible within a reasonable time to effect a cure the return of the alien seamen shall be enforced on or at the expense of the vessel on which they came, upon such conditions as the Commissioner General of Immigration, with the approval of the Secretary of Labor, shall prescribe, to insure that the aliens shall be properly cared for and protected and that the spread of contagion shall be guarded against.

Approved December 26, 1920.



DEPORTATION OF ALIENS

FEBRUARY 4, 1925.—Ordered to be printed

Mr. SABATH and Mr. DICKSTEIN, from the Committee on Immigration and Naturalization, submitted the following

MINORITY VIEWS

[To accompany H. R. 11796]

The undersigned, members of the Committee on Immigration and Naturalization, feel it their duty to dissent from the report of that committee made upon H. R. 11796.

The report of the majority states that the immigration acts of 1917 and 1924 have made it possible, "to a great extent at least, to limit the entry of undesirable aliens and that the passage of the bill will help the immigration authorities in further preventing the entry of such aliens." Section 3 of the 1917 act does in every way prevent the entry of every possible undesirable.

Section 19 of that act provides for the deportation of those in the excluded classes set forth in section 3 and of those who have been convicted of violation of other laws of the United States. In order that the exclusion and deportation provisions of the act of 1917, which is the law and in force to-day, may be clearly in mind, we insert herein part of section 3 and section 19 in its entirety:

SEC. 3. That the following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feebleminded persons, epileptics, insane persons; persons who have had one or more attacks of insanity at any time previously; persons of constitutional psychopathic inferiority; persons with chronic alcoholism; paupers; professional beggars; vagrants; persons afflicted with tuberculosis in any form or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such physical defects being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who practice polygamy or believe in or advocate the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all forms of law, or who disbelieve in or are opposed to organized government, or who advocate the assassination of public officials, or who advocate or teach the unlawful destruction of property; persons who are members of or affiliated with any organization entertaining and teaching disbelief in or

opposition to organized government, or who advocate or teach the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, or who advocate or teach the unlawful destruction of property; prostitutes, or persons coming into the United States for the purpose of prostitution or for any other immoral purpose; persons who directly or indirectly procure or attempt to procure or import prostitutes or persons for the purpose of prostitution or for any other immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons hereinafter called contract laborers, who have been induced, assisted, encouraged, or solicited to migrate to this country by offers or promises of employment, whether such offers or promises are true or false, or in consequence of agreements, oral, written, or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; persons who have come in consequence of advertisements for laborers printed, published, or distributed in a foreign country; persons likely to become a public charge.

* * * * *

SEC. 19. That at any time within five years after entry, any alien who at the time of entry was a member of one or more of the classes excluded by law; any alien who shall have entered or who shall be found in the United States in violation of this act, or in violation of any other law of the United States; any alien who at any time after entry shall be found advocating or teaching the unlawful destruction of property, or advocating or teaching anarchy, or the overthrow by force or violence of the Government of the United States or of all forms of law or the assassination of public officials; any alien who within five years after entry becomes a public charge from causes not affirmatively shown to have arisen subsequent to landing; except as hereinafter provided, any alien who is hereafter sentenced to imprisonment for a term of one year or more because of conviction in this country of a crime involving moral turpitude, committed within five years after the entry of the alien to the United States, or who is hereafter sentenced more than once to such a term of imprisonment because of conviction in this country of any crime involving moral turpitude, committed at any time after entry; any alien who shall be found an inmate of or connected with the management of a house of prostitution or practicing prostitution after such alien shall have entered the United States, or who shall receive, share in, or derive benefit from any part of the earnings of any prostitute; any alien who manages or is employed by, in, or in connection with any house of prostitution or music or dance hall or other place of amusement or resort habitually frequented by prostitutes, or where prostitutes gather, or who in any way assists any prostitute or protects or promises to protect from arrest any prostitute; any alien who shall import or attempt to import any person for the purpose of prostitution or for any other immoral purpose; any alien who, after being excluded and deported or arrested and deported as a prostitute, or as a procurer, or as having been connected with the business of prostitution or importation for prostitution or other immoral purposes in any of the ways hereinbefore specified, shall return to and enter the United States; any alien convicted and imprisoned for a violation of any of the provisions of section four hereof; any alien who was convicted, or who admits the commission, prior to entry, of a felony or other crime or misdemeanor involving moral turpitude; at any time within three years after entry, any alien who shall have entered the United States by water at any time or place other than as designated by immigration officials, or by land at any place other than one designated as a port of entry for aliens by the Commissioner General of Immigration, or at any time not designated by immigration officials, or who enters without inspection, shall, upon the warrant of the Secretary of Labor, be taken into custody and deported: *Provided*, That the marriage to an American citizen of a female of the sexually immoral classes the exclusion or deportation of which is prescribed by this act shall not invest such female with United States citizenship if the marriage of such alien female shall be solemnized after her arrest or after the commission of acts which make her liable to deportation under this act: *Provided further*, That the provision of this section respecting the deportation of aliens convicted of a crime involving moral turpitude shall not apply to one who has been pardoned, nor shall such deportation be made or directed if the court, or judge thereof, sentencing such alien for such crime shall, at the time of imposing judgment or passing sentence or within thirty days thereafter, due notice having first been given to representatives of the State, make a recommendation to the Secretary of Labor that such alien shall not be deported in pursuance

of this act; nor shall any alien convicted as aforesaid be deported until after the termination of his imprisonment; *Provided further*, That the provisions of this section, with the exceptions hereinbefore noted, shall be applicable to the classes of aliens therein mentioned irrespective of the time of their entry into the United States: *Provided further*, That the provisions of this section shall also apply to the cases of aliens who come to the mainland of the United States from the insular possessions thereof: *Provided further*, That any person who shall be arrested under the provisions of this section, on the ground that he has entered or been found in the United States in violation of any other law thereof which imposes on such person the burden of proving his right to enter or remain, and who shall fail to establish the existence of the right claimed, shall be deported to the place specified in such other law. In every case where any person is ordered deported from the United States under the provisions of this act, or of any law or treaty, the decision of the Secretary of Labor shall be final.

Section 19 of that act provides for the deportation within five years of those guilty of crimes involving moral turpitude and for many other offenses without limitation of time. We feel that the majority is obliged to concede that if any undesirables did enter or were not deported it was not the fault of the law but failure to administer the law, such failure being largely due to inadequate appropriations having been made for the Department of Labor and thus made impossible, without adequate personnel and legal machinery, a proper enforcement of the present law.

The act of 1917 does not limit the number admissible, but the act of 1924 does restrict, especially the number of immigrants from central, southern, and eastern European countries to a negligible number and gives full power to our consular officials to thoroughly examine every alien applicant before issuing him an immigration certificate, without which certificate no alien can enter the United States legally. Therefore we are at a loss to understand how and in what way H. R. 11796 will materially assist in preventing the entry of undesirable and dangerous aliens. If it really had been the intention to prevent the entry of undesirable aliens, the committee surely should have acted upon the recommendations of Secretary Davis and others and should have provided that the quota restrictions in the 1924 act should also be applicable to Mexico, Canada, South and Central American Republics, from which countries we are to-day receiving the great bulk of our immigration, in fact, six times as great in numbers as we permit to enter from Europe—Great Britain and Germany excepted—and who enter without such careful preliminary consular investigation or examination as is given to European immigrants. This bill in no way restricts immigration from those countries and does not in any manner strengthen the present law or in any way provide for better examinations or investigations, nor does it include any provisions that would prevent the wholesale desertion of seamen as evidenced by 34,679 who deserted during the past fiscal year. Therefore, by no stretch of imagination can it be stated that the bill will further aid in preventing the illegal entry of undesirable aliens.

The report fails to state or give the main or underlying reason for this proposed legislation, namely, the removal of the five-year limitation and thus make possible wholesale deportations of not only those who entered illegally but also those who are legally and lawfully within the United States. An alien who, after years of hard and hazardous employment, may have become, even while temporarily disabled or ill, a temporary public charge, because he received hospitalization or care in any of our public institutions, or owing to

the insanitary conditions under which the alien was obliged to labor, may have become imbecile, feeble-minded, epileptic, or insane, or, as designated by some experts, as suffering from constitutional psychopathic inferiority, regardless of length of time in the United States and who, though desirous of becoming an American citizen, was prevented from doing so, will be subject to deportation unless he can affirmatively prove, which may be impossible, that his ailments or disabilities have arisen from causes subsequent to his entry into the United States.

The deportation of all aliens guilty of any crime or offense involving moral turpitude has our sincere approval. But we deprecate the removal of time limit in all causes as well as the placing the burden of proof upon the alien and forcing him not only to prove himself innocent but also compelling him to disprove many groundless charges that may be made against him by any unscrupulous person who might make them because of a dislike or grudge, or for the purpose of extortion or blackmail and vesting our immigration inspectors with power to override the findings and judgments of our courts.

To make our position clear and to familiarize the unbiased members more fully with what we term unnecessarily harsh provisions of this bill, we will set forth our views and objection, not in the order of their importance, but in the order in which they appear in the bill.

(1) Section 19 materially changes the present deportation act. It provides that "at any time after entering the United States—whether the entry was before or after the enactment of the deportation act of 1925—the following aliens shall be taken into custody and deported." Then follows an enumeration of 14 classes, the first of which is exceedingly comprehensive. It includes all aliens who, at the time of entry, belonged to one or more of the classes excluded by law from admission to the United States.

That harks back to section 3 of the immigration act of 1917, and includes, among others, illiterates, persons suffering from a physical defect of a nature which may affect the ability of such alien to earn a living and persons of constitutional psychopathic inferiority. While section 19 of the present law fixes a limitation of five years after entry within which the aliens affected may be deported, the section as sought to be amended removes all time limitation and permits such deportation proceedings to be taken at any time, first, after the alien has entered the United States, and secondly, whether such entry was before or after the enactment of the deportation act of 1925.

Therefore, if a person was admitted into this country 10 years ago and is an illiterate, or is regarded as likely to become a public charge, or is of constitutional psychopathic inferiority, he may be deported, regardless of whether he has been admitted by a judgment of the court, or has been self-supporting, law-abiding, and otherwise unobjectionable. While it is true that the literacy test was not enacted until 1917, yet the language of the amendment is so broad as to invite an interpretation that, if the alien at the time of entry belonged to one or more of the classes excluded by law from admission to the United States, which means belonging to one of the categories set forth in section 3 of the act, he may be deported, regardless of the time when he entered the United States.

It may well be that the immigration inspectors regarded the alien as sufficiently literate to warrant admission; the alien may have been

here many years and he is now thoroughly literate; yet under the proposed measure he could be deported if it were now found that he was illiterate at the time of his entry.

Under our laws the most heinous crime, other than murder, would be outlawed in three years (U. S. R. S., secs. 1043, 1044), and yet it is now suggested that no limit of time shall deter the deportation of an alien after he has entered the United States, regardless of the time of entry, by pursuing the drastic summary proceedings specified in the bill. The person sought to be deported may have married and have a family of children, and yet he or she may be banished as a result of this new dispensation and be punished in a manner compared with which even imprisonment would be preferable.

We seriously doubt whether such a provision is constitutionally valid. It bears all of the objectionable features of an *ex post facto* law. While not in so many words a criminal proceeding, it is, in effect, the equivalent of such a proceeding. Moreover, in so far as it repeals what was formerly a three-year limitation and is now a five-year limitation, and deprives those in whose favor the bar of the statute has run of immunity from deportation, it would be contrary to all precedent to lift that bar and to permit the arrest and deportation of those who at the time of the passage of the proposed act were exempt from prosecution and deportation. This is not even permitted where a mere property right is concerned. (*Germania Savings Bank v. Suspension Bridge*, 159 N. Y. 362; *Wheeler v. Jackson*, 137 U. S. 245.) How much more should such a principle apply to a case virtually involving life and liberty!

Such legislation is inequitable and unjust, and, therefore, un-American. So long as our public policy protects even the worst criminal from prosecution for a wrong committed against society after the lapse of time specified in our criminal legislation, it is awful to contemplate that one who is claimed to belong to one of the classes excluded by law from admission to the United States, and whose sole dereliction has been a desire to come to this country and has carried out that design, is to be regarded as having committed an offense punishable for all eternity, one which the lapse of time will not mitigate or alleviate and which, like a charge of murder against an individual, will never be wiped out no matter how much time may elapse. Under the terms of this bill it is immaterial whether he was entirely honest and free from fraud, deceit, and misrepresentation. He may have been passed by immigrant inspectors and physicians in due course, who acted in good faith and honestly believed that he should be admitted. He may have been admitted in consequence of an appeal to the Secretary of Labor, or to his predecessor, the Secretary of Commerce and Labor. A court may have legally established his right to admission.

Yet if it is charged 10, 15, or 20 years after the event that a mistake was made, or that the immigrant in fact should not have been admitted and could have been excluded under the then existing law, the dire decree of banishment may be pronounced and carried into effect, and the decision rendered by the Secretary of Labor, in the language of the bill (p. 10, lines 18-20), "shall be final."

If this feature of the bill becomes a law, then immigrant hunting as a sport will take the place of witch hunting and heresy hunting.

There is and should be in the law a statute of repose, as statutes of limitations have been properly termed. There are more things to do than stir up the dry bones of the past and to seek the skeleton in the closet. Such a statute would unquestionably give rise to wholesale blackmail, extortion, and oppression. The possibility of the resulting scandals should be sternly resisted.

What we have said in this respect applies to every one of the 14 subdivisions of section 19.

(2) Proceeding now to a consideration of other of the subdivisions of section 19, we call attention to subdivision 4, which provides for the deportation, at any time, of "an alien who is a public charge from causes not affirmatively shown to have arisen subsequent to entry into the United States." While there is some basis for an argument in favor of the imposition of the burden of proof upon an immigrant at the time of entry into the United States, that he will not become a public charge, or as to his mental, physical, or moral fitness, it is entirely a different proposition to impose upon an alien who has been admitted and who is subsequently sought to be deported, the burden of showing affirmatively that the causes arose subsequent to entry into the United States. In these proceedings the Government takes the initiative. It is seeking to remove out of the country one who was admitted in regular course. Such action on its part gives rise to a legitimate presumption of regularity. The burden of showing the contrary in proceedings so initiated by it, under every rule heretofore prevailing in our jurisprudence, should therefore be borne by it.

Take the case of an alien workman coming into this country 20 years ago, who has broken down physically and is unable to maintain himself, temporarily, at least. During all the time of his sojourn here he has been diligently engaged in his occupation. Upon becoming a public charge proceedings for his deportation are instituted. Why should he be required to prove that when he arrived here there was not by some possibility an inherent or undiscovered weakness which, in course of time, and as a result of his exertions, developed into a condition of serious disability, the country in the meantime having had the benefit of his labor and his industry? To prove the negative might call for the testimony of expert witnesses and their attendance at the hearing before the immigration inspector. To bear the expenses of such witnesses may be pecuniarily impossible for the alien, and yet failure to produce this testimony would at once establish the case of the Government. Under the terms of this bill, all that it would be necessary for it to do would be to arrest the alien, bring him before the immigrant inspector, present its claim that he has become a public charge, and then rest its case upon the presumption created by this bill.

It would seem that the mere statement of these facts would demonstrate the injustice of such a rule. It would be bad enough if a time limit similar to that applicable to a criminal case should be attached to this law, but to remove the time limit creates a state of affairs which is really alarming and presents possibilities which are abhorrent to contemplate.

(3) What we have said with regard to subdivision 4 of section 19 is equally true of subdivision 5.

(4) We now come to subdivisions 6, 7, 8, 9, and 10, relating to deportation of aliens convicted of various offenses. It is significant that in each of them the offenses in question must have been "committed

after the enactment of the deportation act of 1925." This qualification is, of course, necessary in order to comply with the provision of the Constitution relating to ex post facto laws. It is, however, significant that, while under section 19 an alien who has been actually convicted of a crime is not to be deported unless it was committed after the enactment of the deportation act of 1925, if he was at the time of entry a member of one or more of the classes excluded by law from admission to the United States, or entered at a place other than as designated by immigration officials, or remained in the United States longer than by law authorized or by regulations made by authority of law, or become a public charge, or is feeble-minded, he may be deported "at any time," regardless of the date of the enactment of the deportation act of 1925. This is certainly a most shocking differentiation.

But dealing with the subject of deportation of those convicted of an offense, as distinct from the other provisions of section 19, it would seem there is something lacking in these provisions, in that the offense for which the alien has been sentenced to imprisonment may not have been one involving moral turpitude, but may have been merely a high-grade misdemeanor, or an offense of a technical character, or a first offense, or the result of a lack of familiarity with local conditions. So far as first offenders are concerned, at all events, the element of moral turpitude should be involved in the offense for which they have been convicted and sentenced.

(5) Subdivision 7 of section 19 provides that "An alien who is convicted of any offense—committed after the enactment of the deportation act of 1925—for which he is sentenced to imprisonment for a term which, when added to the terms to which sentenced under one or more previous convictions of the same or any other offense—committed after the enactment of the deportation act of 1925—amounts to 18 months or more," while under subdivision 8 of section 19 an alien who is convicted of any violation of the Volstead Act is deportable if the conviction for which he is sentenced to imprisonment for a term which, if added to the sentence of one or more previous convictions, amount to one year or more. We can not draw the line between the crimes of one violating the Volstead Act and the burglar. The man who is charged with burglary, larceny, and many other serious offenses, which goes more toward the moral standing of this country, who convicted for the offenses and by good fortune his sentences are less than 18 months, he may not be deported. Yet the mere violation of the Volstead Act and a sentence of one year would deport. This especially in view of the fact that it must be conceded by all that the influential and big offenders are seldom convicted under the Volstead Act and that the record of convictions is made from the unfortunates who, in a great many instances, are found guilty not of sale or transporting but of possessing in their own homes some of their home-made concoctions or beverages containing above one-half of 1 per cent of alcohol. This statement is borne out by the close examination and investigation of the record of convictions that a great majority who have been found guilty of this offense.

(6) Subdivision 9 provides for the deportation of "an alien who was convicted, or who admits the commission, prior to entry, of an offense involving moral turpitude." Here, again, it is to be borne in mind that the statute does not relate to exclusion at the time of

arrival, but to deportation at any time after entry. What seems to us objectionable in the phrase which permits the deportation of an alien "who admits the commission, prior to entry, of an offense involving moral turpitude." That means that, even though there may be no actual proof of conviction, if an enemy of an alien or a secret service agent should state that an alien has admitted to him the commission of such an offense before he came to this country, he may be deported, regardless of corroboration of the alleged confession or admission and regardless of the time when the alleged offense is claimed to have been committed. Twenty years after coming to this country it might be claimed that an alien who has become the father of a family and has gained an excellent reputation, admitted that when a boy in England, Ireland, or in Germany committed a theft. And yet under this clause of the bill he would be subject to deportation.

(7) Subdivision 10 deals with the deportation of an alien who has violated or conspired to violate the white slave traffic act or the narcotic act "whether or not convicted of such violation or conspiracy." In other words, a person may have been arrested or indicted for a violation of these acts and may have been acquitted by a court or a jury, yet he may be deported if an immigrant inspector desires him to be deported.

Without seeking in any way to minimize the importance of these laws, it is a matter of common knowledge that advantage is often taken of both of them by blackmailers. Is it intended to convert the deportation act of 1925 into a royal road for the accomplishment of the vile purposes of blackmailers? Why select these two crimes from the myriad of others upon our statute books? If the provision were general as applicable to all crimes, our immigration department would become a court of last resort in criminal cases and would be enabled to convict after a jury has acquitted or after a public prosecutor has concluded that there is a lack of sufficient evidence to warrant a conviction. In the case of previous acquittal it is clear that this provision would be unconstitutional, because it would violate that part of the fifth amendment to the Constitution of the United States which declares, "nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb," as construed by the courts.

(8) Coming now to the proceedings for the deportation of an alien, the provisions for which are to be found in lines 15 to 25 on page 9 and on page 10, it is properly provided (p. 10, lines 14-18) that "no alien shall be deported unless before the issuance of the order of deportation he was afforded, at the hearing before the immigration inspector, an opportunity to be heard after notice upon the grounds stated in the order of deportation." There is, however, a significant absence of the provision affording him the right to be represented by counsel at such a hearing. That is implied in the requirement of the Constitution that no personal shall be deprived of life, liberty, or property without due process of law. The nature of the proceeding is likewise one which comes within the spirit of the sixth amendment, which entitles an accused to have the assistance of counsel for his defense. While it is not technically a "criminal prosecution," it is in its effect the equivalent of one.

The fact that the decision of the Secretary of Labor is to be final, makes it essential, for the protection of the alien who is proceeded

against under the drastic provisions of this bill, that he be represented by counsel in these proceedings.

(9) Referring to section 20, which provides for the actual deportation of aliens, attention is directed to lines 3 to 8 of page 13, which provide that if the aliens entered the United States "from foreign contiguous territory" they are to be returned to such territory "or to the country of which such aliens are citizens or subjects or to the foreign port at which they embarked for such territory, irrespective of whether such aliens have acquired a domicile in such territory. In other words, if an alien acquired a domicile in Mexico or Canada 5 or 10 years ago and came to the United States from there, he may be returned, not to Mexico or Canada, but to the country of which he is a citizen or subject prior to acquiring any domicile in Mexico or Canada, or to the foreign port at which he embarked for Mexico or Canada. This is highly punitive, unreasonable, and inhuman.

The same is true of the following subdivision, lines 8 to 14 of page 13.

(10) Section 8 (a), on page 20, provides that if an alien has been arrested and deported in pursuance of law he shall be excluded from admission to the United States, whether such deportation took place before or after the enactment of this act, and if he enters or attempts to enter the United States after the expiration of 30 days from such enactment he shall be guilty of a felony, subject to fine and imprisonment.

As this section reads, it could be made to apply to persons who attempted to come to this country but were deported because of the exhaustion of quotas under the act of 1921 or the immigration act of May 26, 1924. It is a matter of common knowledge that there were many who sought to enter the United States who were deported because on the very day on which they arrived the quotas from their countries were exhausted. In fact in November, 1923, several hundred were deported although the quotas for Russia had not been exhausted. It certainly can not be contemplated that such persons shall be excluded from admission or be subject to conviction for felony should they again attempt to come to the United States.

We also call attention to the fact that, although under the present section 19 it is declared that its provisions relating to the deportation of aliens convicted for a crime involving moral turpitude shall not apply to one who has been pardoned, there is no equivalent of this character in the bill now under discussion. It would seem that such a provision is fair.

We have given considerable thought to this subject because of our anxiety that our legislation in respect to the drastic and summary remedy of deportation shall not involve unfair, unjust or unreasonable provisions. We recognize the wisdom of having a clear and unambiguous codification of the law on this subject, but it should not be harsh or tyrannical or contrary to the best traditions of America.

For some reason certain persons and members of the Committee on Immigration and Naturalization have tried to impress the membership of the House, as well as the country, with the large number of aliens coming from Mexico as being Europeans. This is what the Commissioner General of Immigration states on page 20, line 3, of his last annual report:

In the last annual report it was stated that during the fiscal year 1922, 3,450 European aliens arrived at the port of Vera Cruz, and that in the following fiscal year 5,000 such aliens arrived at the same port. Information received by

this office indicated that arrivals of European aliens at other Mexican seaports during these two years were of a negligible volume. During the fiscal year covered by this report, 8,221 such aliens arrived at Vera Cruz, 2,453 at Tampico, and 46 at Mazatlan, or a total of 10,720 at the three Mexican seaports named.

We respectfully call attention to appendix, Table 1, giving the number of aliens deported during the fiscal year ended June 30, 1924, and for the first six months ended December 31, 1924, for causes. These figures clearly demonstrate that the present law gives the department power to deport for every conceivable cause.

Table 2 of the appendix gives deportation of persons by races. A close study of these statistics will prove beyond any doubt that our former contention that the reports of certain professional immigration specialists and experts, on whom the Committee on Immigration and Naturalization relied, were not only unreliable and misleading as to the so-called anthropological tests of certain peoples but were false as this official report proves. Men making these statements are guilty willfully libeling many races of people.

Table 3, the last table of the appendix, gives deportations by races or peoples and causes for the fiscal year ended June 30, 1924.

TABLE 1.—*Aliens deported from the United States after landing during the fiscal year ended June 30, 1924, and six months ended December 31, 1924, by causes*

Causes	Number for fiscal year ended June 30, 1924	Number for 6 months from July 1 to Dec. 31, 1924	Causes	Number for fiscal year ended June 30, 1924	Number for 6 months from July 1 to Dec. 31, 1924
Insanity, epilepsy.....	612	273	Received proceeds of prostitution or connected with the house of prostitution or other place habitually frequented by prostitutes.....	44	24
Imbeciles, feeble-minded.....	19	2	Found in the United States after having been deported as a prostitute or procurer, or as having been connected with the business of prostitution.....	13	5
Constitutional psychopathic inferiority.....	57	15	Entered the United States within 1 year of previous deportation.....	190	90
Other mental conditions.....	36	31	Unable to read (over 16 years of age).....	345	208
Loathsome or dangerous contagious diseases.....	101	51	Under passport provisions of section 3.....	44	16
Professional beggars and vagrants.....	3	2	Geographically excluded classes.....	53	22
Likely to become a public charge.....	2,092	1,307	Under provisions of Chinese exclusion act.....	172	33
Public charges not specified.....	52	123	Without proper passport (under State Department regulations).....	218	275
Entered without inspection.....	605	481	Under last proviso of section 23.....	270	61
Contract laborers.....	54	29	Under provisions of narcotic act.....	21	14
Accompanying aliens (under sec. 18).....	3	1	Under per centum limit act of May 19, 1921, as extended "Excess quota".....	462	260
Assisted aliens.....	12	20	Without proper visé, (under act of 1924).....		600
Under 16 years of age and unaccompanied by parents.....	26	11	Total.....	6,409	4,448
Stowaways.....	16	4			
Polygamist.....	1	2			
Criminals.....	525	331			
Anarchists, and violations of war-time legislation.....	81	16			
Prostitutes and aliens coming for any immoral purpose.....	06	59			
Supported by or received the proceeds of prostitution.....	3	1			
Aliens who procure or attempt to bring in prostitutes or females for any immoral purpose.....	88	26			
Prostitutes after entry or inmates of houses of prostitution.....	80	52			
Imports or attempts to import, or assists, or protects, or promises to protect prostitutes from arrest.....	5	3			

TABLE 2.—*Race or people who have been deported*

	July to Dec., 1924
African (black).....	89
Armenian.....	15
Bohemian and Moravian (Czech).....	16
Bulgarian, Serbian, and Montenegrin.....	61
Chinese.....	151
Croatian and Slovenian.....	70
Cuban.....	4
Dalmatian, Bosnian, and Herzegovinian.....	10
Dutch and Flemish.....	114
East Indian.....	16
English.....	531
Finnish.....	40
French.....	241
German.....	286
Greek.....	171
Hebrew.....	154
Irish.....	290
Italian (north).....	68
Italian (south).....	287
Japanese.....	52
Korean.....	4
Lithuanian.....	9
Magyar.....	37
Mexican.....	690
Pacific Islander.....	3
Polish.....	71
Portuguese.....	38
Rumanian.....	42
Russian.....	43
Ruthenian (Russniak).....	20
Scandinavian (Norwegians, Danes, and Swedes).....	202
Scotch.....	220
Slovak.....	56
Spanish.....	156
Spanish American.....	23
Syrian.....	69
Turkish.....	9
Welsh.....	18
West Indian (except Cuban).....	3
Other peoples.....	69
Total.....	4,448

TABLE 3.—Aliens deported to countries whence they came, after entering the United States, fiscal year ended June 30, 1924, by races or peoples and causes

Race or people	Deportation compulsory within 5 years after entry																													
	Members of excluded classes at time of entry																													
	Imbeciles	Feeble-minded	Insane or have been insane	Epileptics	Constitutional psychopathic inferiority	Loathsome or dangerous contagious diseases		Chronic alcoholism	Likely to become a public charge	Professional beggars	Stowaways	Assisted aliens	Accompanying aliens	Excess quota under per centum limit act of 1921, as extended	Under narcotic act	Without proper passport, under State Department regulations	Under last proviso of sec. 23	Contract laborers	Under 16 years of age at time of entry, unaccompanied by parents	Criminals	Polygamists	Anarchists	Prostitutes and aliens coming for any immoral purpose	Supported by or received the proceeds of prostitution	Aliens who procured or attempted to bring in prostitutes or aliens for any immoral purpose	Entered the United States within 1 year of previous deportation	Geographically excluded classes (natives of that portion of Asia and islands adjacent thereto described in sec. 3)	Under passport provision of sec. 3	Unable to read (over 16 years of age)	Total members of excluded classes at time of entry
African (black).....					6		1		54		1	1		8		1	3			2			1		2		1		8	77
Armenian.....									2																				1	19
Bohemian and Moravian (Czech).....					1				5					1		2	1									2			1	13
Bulgarian, Serbian, and Montenegrin.....						1			5					8		2	10			2									7	35
Chinese.....					1		1		42		1			7	12					1			1				1		5	65
Croatian and Slovenian.....		1	1						25							5	16						1			2			4	63
Cuban.....					1				10							2			1											14
Dalmatian, Bosnian, and Herzegovinian.....																														1
Dutch and Flemish.....		1		1	1				36				1	14		9	4		1	2		2			3	1		2	2	74
East Indian.....									4																				2	59
English.....		1	3		5	1		1	196					23		10		5	3	35			40		24	26		52	12	386
Finnish.....					1				10		3	1		1		14									1					35
French.....	2	1		1			2		204					1		2	1	7		8			5	1	8	49		34	326	
German.....			1		5		2		133		1	2		11		14	19	2		1	5		3		1	7		5	212	
Greek.....						1	3		37					52		4	14		3	2		1	2	2	1	1		3	125	
Hebrew.....	2				1		1		57			1		9	1	15	10			3					1	11		3	113	
Irish.....		1	2	3					114		2	2		24	2	28		2		9			4		1	9		2	2	

Italian (north)	1			2			2		26					18		5	36	1		1							1			4	97
Italian (south)	2			9	1	1	1		194			1		96		45	53			9		2	2			8	7		37	468	
Japanese									13						1															2	3
Korean									2																						20
Lithuanian									9						6		3													16	
Magyar	1		1	4					7					1		1											1		147	790	
Mexican	1	1	2	2			3	22	448		1	1	1		2		2	29	12	28		33			21	34		6	82		
Polish	2							1	39					6		9	11	3		1		1			2	1		2	46		
Portuguese		1					1	1	15		1			22		5	7					1			1	1		6	40		
Rumanian									13					6		4	2				2				6	6		6	54		
Russian								1	26		2			4		4			1						6	6		3	45		
Ruthenian (Rusniak)									30					1		4				1					6	6		1			
Scandinavian (Norwegians, Danes, and Swedes)	1	1	1	3				1	57			2		4		19				1		3			1	4		2	99		
Scotch	2	2		2	1		2		119					18		7		2	4	9		6			7			2	191		
Slovak				3			1		15				1	5		2	2								5			11	31		
Spanish				4				4	89		4			88	4	5	44	1		2								1	16		
Spanish American									12		1					2												10	64		
Syrian							1		11					17		1	20	1		1					1			2	15		
Turkish							1	3	7					4			4								2			1	11		
Welsh				1					1																				2		
West Indian (except Cuban)									2																			1	61		
Other peoples			1	2					23		2			7		6	1			2	1	1			1			1	4		
Total	6	13	8	13	57	5	7	51	1	2,092	3	16	12	3	462	21	218	270	54	26	124	1	2	106	3	88	190	53	44	345	4,294
Deported from Philippine Islands																														103	

A. J. SABATH.
SAMUEL DICKSTEIN.

